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ONE HUNDRED AND THIRTY-NINTH SESSION

1916

VOL. XXXV.—Nos. 44 TO 49, INCLUSIVE

ALBANY
J. B. LYON COMPANY, PRINTERS
1916

NINTH ANNUAL REPORT

OF THE

NEW YORK STATE

PROBATION COMMISSION

FOR THE YEAR 1915

TRANSMITTED TO THE LEGISLATURE APRIL 3, 1916

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J. B. LYON COMPANY, PRINTERS
1916

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APRIL 3, 1916.

NINTH ANNUAL REPORT

OF THE

STATE PROBATION COMMISSION

STATE OF NEW YORK,

OFFICE OF THE STATE PROBATION COMMISSION,

ALBANY, April 3, 1916.

HON. THADDEUS C. SWEET, SPEAKER OF THE ASSEMBLY:

SIR.—By direction of the Commission, I have the honor to transmit to the Legislature, herewith, the Ninth Annual Report of the State Probation Commission, as required by section 30, chapter 54, of the Consolidated Laws.

Very respectfully yours,

CHARLES L. CHUTE,

Secretary.

STATE PROBATION COMMISSION

MEMBERS

NAME	Address	Appointed by	Date appointed	Term expires
HOMER FOLKS, President..	105 E. 22d st., New York City.	The Governor.....	July 2, 1907	.....
FRANK E. WADE, Vice-President.....	D. S. Morgan bldg., Buffalo..	The Governor.....	Jan. 5, 1912	July 1, 1915
EDWARD C. BLUM.....	424 Fulton st., Brooklyn.....	The Governor.....	July 2, 1907	.....
EDMOND J. BUTLER.....	105 E. 22d st., New York city.	The Governor.....	July 29, 1908	.....
ALPHONSO T. CLEARWATER	Ulster County Savings Bank bldg., Kingston.	Prison Commission...	June 7, 1910	Jan. 5, 1917
JOHN H. FINLEY.....	The Capitol, Al- bany.	The Governor.....	Oct. 4, 1910	.....
HENRY MARQUAND.....	Bedford Hills....	The Governor.....	Dec. 27, 1912	July 1, 1916
		The Governor.....	Sept. 16, 1910	.....
		The Governor.....	July 16, 1914	July 1, 1918
		The Governor.....	April 21, 1909	.....
		The Governor.....	Sept. 16, 1910	.....
		The Governor.....	July 29, 1913	July 1, 1917
		Ex-Officio.....	Dec. 1, 1913	.....
		Board of Charities....	July 14, 1915	April 12, 1917

FORMER MEMBERS

NAME	Address	Appointed by	Date appointed	Term expired
Roger P. Clark.....	Binghamton.....	Prison Commission...	July 2, 1907	Jan. 1, 1909
Felix M. Warburg.....	New York city...	The Governor.....	July 2, 1907	April 20, 1909
Dennis McCarthy.....	Syracuse.....	Board of Charities....	July 12, 1907	Oct. 31, 1909
Francis C. Huntington*...	New York city...	Prison Commission...	Jan. 5, 1909	June 7, 1910
Charles F. McKenna.....	New York city...	The Governor.....	July 2, 1907	Sept. 17, 1910
Horace McGuire.....	Rochester.....	Board of Charities....	Nov. 17, 1909	April 9, 1913
Andrew S. Draper*.....	Albany.....	Ex-Officio.....	June 6, 1907	April 27, 1913
Nicholas M. Peters.....	Syracuse.....	Board of Charities....	April 9, 1913	July 14, 1915

*Deceased.

CHARLES L. CHUTE..... Secretary

JOHN D. LYNN, 2ND..... Assistant Secretary

CLEMENT A. MUNGER... Chief Clerk and Hearing Stenographer

LINA J. KLINE..... Stenographer

Office: 58 North Pearl Street, Albany

STANDING COMMITTEES FOR 1916

COMMITTEE ON PUBLICATION.— The President, Commissioners Clearwater, Finley and Butler.

COMMITTEE ON FINANCE.— Commissioners Blum, Marquand, Wade and the President.

COMMITTEE ON INVESTIGATION.— Commissioners Wade, Finley, Butler and the President.

COMMITTEE ON EXTENSION.— Commissioners Butler, Blum, Wade and the President.

COMMITTEE ON LEGISLATION.— Commissioners Clearwater, Wade, Marquand and the President.

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REPORT

To the Honorable the Legislature of the State of New York:

The State Probation Commission respectfully submits the following report for the year 1915:

DEFINITION OF PROBATION

Probation is a method by which the community, through its courts, seeks to supervise, discipline, and reform offenders without imprisoning them. It is used especially for young or first offenders and others not hardened in vice or crime.

Persons found guilty — whether children or adults — after an investigation (usually by the probation officer) are conditionally given their liberty, under suspension of sentence and on their good behavior, and are placed under the authoritative, helpful, oversight of a man or woman appointed by the court as a probation officer. Those on probation must observe certain conditions, as, for instance, to report regularly to the probation officer (usually once a week), to abstain from evil associates and habits, to work regularly, to pay certain amounts weekly to the probation officer, for family support, fines or restitution, or such other conditions as the court may impose. In case of failure to observe such conditions, those on probation may be returned to court and otherwise dealt with. The probation officer keeps informed as to their conduct by home visits and in other ways, and by friendly and helpful means aids them in every way possible to improve their habits and circumstances.

HISTORY OF PROBATION

The appointment of probation officers was first authorized by law in Massachusetts in 1878. In New York, as in other States, the use of some form of probation for offenders released under suspension of sentence developed without statutory authorization in certain courts. The first general probation law in this State was enacted in 1901. It allowed the appointment of probation officers without compensation and was limited to cities and applicable only to persons over sixteen years of age. The same year a special

law provided for the appointment of probation officers for juveniles in the city of Buffalo. In 1903, the probation law was extended to all parts of the State and made applicable to children. In 1905, provision was made to allow the payment of salaries by local authorities. The same year saw the appointment of a special Probation Commission by the Legislature of New York which thoroughly studied the probation work of the State. The Commission found very little effective probation work then being carried on and no uniformity of methods. In its report to the Governor in 1906, the Commission said: "The appointment of probation officers has been carried into effect in but few of the courts." Describing the irregularity and inconsistency of the work then done, it said: "The underlying weakness of the probation system as now conducted is to be found in the very large number of courts possessing the power of appointment of probation officers and in the absence of any supervision, co-ordination or organization of the work of probation officers, except such as may be exercised by the courts to which they are attached. There are practically as many systems of probation as there are courts using the probation law."

To aid in curing these evils and in extending the probation service to all the courts in this State, the Commission recommended central State supervision. The report of 1906 said: "We are, therefore, strongly of the opinion that, while probation work must always be permitted a considerable degree of flexibility to meet local conditions and individual needs, there should be provided, nevertheless, some form of central oversight. This should involve the collection of information in regard to the extent to which probation is utilized in different portions of the State from time to time, the manner in which probation work is carried on, and the value of the results secured. It should include the authority to make formal and detailed investigations of probation work in any given court or locality, when such is deemed advisable; it should provide for the making of suggestions to the Legislature from time to time for the improvement of the probation system, and for recommendations from time to time to public authorities, judicial and executive, concerned in the administration of probation; it should involve the promotion of probation work in those localities in which it is not availed of."

Following out this recommendation, central State supervision of probation was established in 1907 by the creation of the present State Probation Commission.

DUTIES OF THE COMMISSION

The principal duties of the State Probation Commission as prescribed by law (section 30, chapter 54, Consolidated Laws, as amended by chapter 613, Laws of 1910) are as follows:

To meet at stated times, not less than once every two months;

To exercise general supervision over the work of probation officers throughout the State and to keep informed as to their work;

To inquire into the conduct and efficiency of probation officers from time to time;

To endeavor to secure the effective application of the probation system, and the enforcement of the probation law in all parts of the State;

To collect and publish statistical and other information and to make recommendations as to the operations of the probation system;

To inform all magistrates and probation officers of any legislation directly affecting probation, and to publish each year a list of all probation officers in the State;

To make an annual report to the Legislature showing the proceedings of the Commission, the results of the probation system as administered in the various parts of the State, with recommendations.

MEMBERS AND OFFICERS OF THE COMMISSION

There has been one change in the personnel of the Commission during the past year. On July 14, 1915, Nicholas M. Peters ceased to be a member of the Commission following his retirement from the State Board of Charities, and Henry Marquand of Bedford Hills was designated by the State Board of Charities to fill the unexpired term. On January 5th Frank E. Wade of Buffalo was redesignated by the Commission of Prisons as a member of the Probation Commission for the ensuing year.

On January 20th, Commissioners Folks and Wade were re-elected as president and vice-president, respectively, for the ensuing year.

RESUME OF THE WORK OF THE COMMISSION

During the past year there has been no marked change in the policies or general lines of work carried on by the Commission. Its principal activities, as in previous years, have been concerned with the extension of effective probation work, especially in communities which have been without salaried officers, in keeping in ~~as~~ close touch as possible with the work of the officers through their monthly reports, correspondence, visits and investigations, and in the promotion of public knowledge and support of probation work by means of conferences and the distribution of literature.

More specifically the activities of the Commissions have included the following:

1. The holding of regular bi-monthly Commission meetings in various cities.

2. The collection of monthly statistical reports from all probation officers of the State, and the tabulation of the same.

3. The publication and distribution of literature on probation, including the annual report and the Manual for Probation Officers.

4. Supplying probation officers with blank forms, record books, literature and information to assist them in their work.

5. Visits of inspection and investigation of the work of courts and probation officers throughout the State.

6. Special efforts for the extension of the probation system in cities and counties.

7. Assisting in civil service examinations, both State and local for the appointment of probation officers.

8. Studying legislation affecting probation introduced or proposed.

9. The preparation and advocacy of several proposed amendments before the Constitutional Convention of the State.

10. Arranging for and conducting the following conferences:

- (a) The sixth annual conference of the State Association of Magistrates at Albany, January 19 and 20.

- (b) The fifth series of New York conferences on probation, consisting of six meetings, April 22 to May 7.

- (c) The eighth annual conference of probation officers at Albany, November 14-16.

INVESTIGATION AND EXTENSION WORK

Probably the most important work of the Commission is that of visiting and investigating the work of probation officers throughout the State. As far as its small staff has allowed, the Commission has endeavored to keep in as close touch as possible with the probation officers, especially in the larger cities, by means of visits of inspections and investigations, by its Secretary and Assistant Secretary. A total of 101 visits of inspection of courts and probation offices have been made during the past year. Most of the cities and the majority of the counties were visited, many visits being made in the larger cities. In twelve cases a thorough investigation and report was made.

Directly connected with the work of investigation are the efforts made each year to secure the extension of the system and the appointment of new officers. There are still many localities in the State where effective probation has not been established. The Commission endeavors to select those cities or counties where the greatest need exists and to make a special effort to see that the need is provided for. After canvassing the situation through an investigation of the work of the courts and interviews with public officials and leading citizens, a hearing is arranged before the board of supervisors, if a county probation officer is sought, or before the city council to secure city officers. The hearing is followed up by efforts to secure the necessary appropriation to start probation work. Special efforts to secure the appointment of county probation officers were carried on last year in the counties of Nassau, Orange, Westchester, Chemung, Orleans, Seneca, Delaware, for the Court of General Sessions of New York city and for the County Courts of Kings, Queens and Richmond. Successful efforts of this character were carried on in the cities of Buffalo and New York. Hearings, addressed by a representative of the Commission, were held before the county board of supervisors in the counties of Steuben, Orange, Westchester, Orleans, Seneca and Delaware, and before city boards in Buffalo and New York. We have also joined in efforts to secure more adequate salaries for probation officers. Under the heading "Local Developments Throughout the State," some account of these special efforts and the results obtained is included.

PUBLICATION AND DISTRIBUTION OF LITERATURE

The Commission acts as a clearing house for information on probation work. Many inquiries are answered and the reports and other publications of the Commission, including the Manual for Probation Officers, are sent out upon request. Probation officers and other persons desiring to become such, judges and others connected with the work of the courts received literature. Three thousand seven hundred and eighty-eight packages of literature were sent out during the year.

The Eighth Annual Report of the Commission was published in September and about two thousand copies were sent out throughout the State. It has always been the effort of the Commission to make the report of practical and educational value, containing as it does the proceedings of conferences and other general matter on probation.

In addition to the annual report, the minutes of its meetings, programs of conferences, etc., the Commission has published the following pamphlets during the year:

“Children’s Court Problems,” an address delivered at the State Conference of Magistrates, by Justice Benjamin J. Shove.

“Reorganization of the Courts of Limited Jurisdiction,” report of the Committee on Constitutional Convention of the State Association of Magistrates.

“Effective Probation; Its Place in the Treatment of Crime,” address at the State Conference of Probation Officers by Governor Charles S. Whitman.

A Brief submitted to the Supreme Court of the United States regarding the suspension of sentence and the use of probation in the United States District Courts.

In addition to the above, we have distributed the following:

“The Probation Officer at Work,” published by the School of Philanthropy, New York city, by Henry W. Thurston.

“Adult Probation and Parole,” published by the National Conference of Charities and Correction, by Frank E. Wade.

FORMS FOR PROBATION OFFICERS

The Commission has continued its policy of distributing a full set of forms for probation officers’ records. Many of the

forms have been revised and republished during the past year. An effort is made to incorporate the latest and best ideas on the subject, forms being secured for comparison from courts in all parts of the country. During the year 66,479 copies of forms were sent out for the use of probation officers in the State. While this distribution entails much work and expense, we believe it is of great value in bringing about thorough record keeping and a measure of uniformity in the State. It is especially helpful to be able to supply to newly appointed probation officers who often begin their work without any previous knowledge of the same and without any office equipment, a complete set for starting their work.

OFFICE AND STATISTICAL WORK

Monthly statistical reports have been received from all probation officers throughout the State, as has been done since the Commission was established. All facts appearing on these reports are carefully tabulated and the results appear in this report. A valuable feature of these reports added during the past year is the receiving of reports from each officer on his home visits and in regard to parole cases under his supervision. A separate report is also received upon cases of children under supervision and informal probation.

By means of these regular reports and much correspondence with probation officers, as well as by visits, the Commission endeavors to keep informed as to the work of the officers in all parts of the State that it may know the results, needs, special deficiencies and excellencies of the work being carried on.

A total of 14,947 pieces of mail were sent out by the Commission during the year, of which approximately 3,942 were signed letters; 3,891 were circular letters; 3,788 packages of literature; 2,071 programs of conferences, and 1,255 blank reports.

THE STATE CONFERENCE OF PROBATION OFFICERS

Each year for the past eight years, the Commission has called together the probation officers of the State and others to attend a conference to discuss probation problems and to hear addresses upon various phases of the work. This annual conference has

become an institution in the State. It promotes mutual acquaintance among the officers, and mutual exchange of views and experiences. It has in this way added much to the development of effective probation and to the co-operation of the probation officers.

The eighth annual conference was held in the Education Building, Albany, on November 14, 15 and 16, 1915. Over one hundred persons registered as delegates to the conference, fifty-five of whom were probation officers from all parts of the State. Many of the probation officers attended the conference at their own expense. The Commission has each year endeavored to secure the sending of probation officers to the annual conference at the expense of the cities or counties for which they serve. As the conference undoubtedly makes the officers more efficient, and better equipped to cope with their daily problems, attendance upon the conference should be considered one of their most necessary expenditures.

The conference consisted of three sessions given over to formal addresses by judges and authorities upon the subject of probation work. Among others, the conference was honored by the presence of Governor Charles S. Whitman, whose able address upon the subject, "Effective Probation; Its Place in the Treatment of Crime," will be found published in full in the proceedings which follow. There were held also three sessions given over entirely to informal round-table discussions. The proceedings of the meeting will be found in Appendix D of this report.

NEW YORK CITY CONFERENCES ON PROBATION

For the past five years, the Commission has co-operated with the judges and probation officers of New York city in conducting a series of evening conferences on probation, especially for the probation officers of the city. A joint committee consisting of probation officers from the various courts met with representatives of the Commission and made arrangements for the fifth annual series. The meetings were held in the City Hall on Thursday and Friday evenings from April 22 to May 7, 1915. The attendance was made up largely of probation officers and others engaged in related lines of work. Most of the meetings were given over to general discussion which was very practical and animated. In New York city there are varying methods and ideas in vogue in the probation work of the different courts. The bringing together

of the officers of the city once a year has served to unify the different plans of work and improve the general standard. The plan of placing responsibility for conducting meetings more largely in the hands of the probation officers themselves proved successful. The proceedings, in part, will be found in Appendix C.

THE CONFERENCE OF THE STATE ASSOCIATION OF MAGISTRATES

The State Association of Magistrates was organized independently in 1909 as a result of an invitation extended by the Commission to city judges to meet in an informal conference at Albany in that year. The Commission has always co-operated very closely with the Association, its secretary acting as secretary of the Association. The President, Hon. George C. Appell, City Judge of Mount Vernon, the Vice-President, Hon. Edward J. Dooley, City Magistrate of Brooklyn, the other members of the Executive Committee and special committees, co-operating with the Secretary, have been active during the past year in efforts to improve and standardize the magistrates' courts of the State. Efforts have been chiefly directed toward securing legislation and constitutional amendments and toward increasing interest in the Association. In this connection, the Commission printed a brief prepared by a Committee of the judges on the "Reorganization of the Courts of Limited Jurisdiction" and sent out letters to all judges and to many others in regard to needed Constitutional amendments indorsed by the Association.

The sixth annual conference of the Association was held in Albany on January 19 and 20, 1915. The proceedings of the meeting were published in the last report of the Commission. The seventh annual conference was the most successful and best attended of any yet conducted by the Association. It was held in the Hotel Astor, New York city, on January 21 and 22, 1916, and was attended by 53 judges from all over the State. The proceedings of the meetings are given in Appendix E.

CIVIL SERVICE EXAMINATIONS

The success and permanence of the probation system depends increasingly upon securing and retaining efficient and experienced officers in the service. Nothing can be more important than the selection of men and women with the requisite adaptability, tact,

knowledge of human nature, character, and interest, and the other qualities which go to make up a good probation officer. Five years' experience in selecting probation officers entirely through civil service examinations in this State has more than justified the system. During the past two years it has been especially evident that the very qualities most essential in probation officers can be ascertained through the right kind of civil service examinations. In every civil service examination held in the State during the past year, two features for which the Commission has long contended have been incorporated: (1) The holding of a practical oral examination; (2) The use of expert examiners familiar with probation work, in the oral part and, in some instances, in all parts of the examination.

All examinations conducted by the State Civil Service Commission for county positions during the past year have consisted of two parts:— a practical written examination for which 50 per cent. credit is allowed, and an oral examination, given the same weight, in every case conducted with the assistance of a representative of this Commission. The results of these examinations have been remarkably good. We do not hesitate to state that in every examination held last year, the men or women who were best qualified by personality and experience attained the head of the list. In all except two cases, the appointing magistrate, although having free choice among the first three names, selected the candidate who stood first on the list. On account of these civil service examinations, very noticeable improvement in the quality of the probation officers and in the effectiveness of the work done has occurred during the past few years. The Commission appreciates the cordial co-operation of the present State Civil Service Commission in requesting our assistance in all such examinations.

A representative of the Commission also assisted in examinations conducted by two Municipal Civil Service Commissions during the past year, in one case preparing and conducting the entire examination.

Following is a list of the examinations in which the Commission has assisted at the request of the civil service commissions during 1915:

Steuben county, January 7th: Examination for two county

probation officers, conducted by the State Civil Service Commission, fourteen candidates, the secretary, Mr. Chute, assisting.

Niagara county, January 23d: Examination for county probation officer, conducted by State Civil Service Commission, ten candidates, Commissioner Wade assisting.

St. Lawrence county, January 23d: Examination for county probation officer, conducted by the State Civil Service Commission, fourteen candidates, the secretary, Mr. Chute, assisting.

Erie county, April 24th: Examination for Polish county probation officer, conducted by the State Civil Service Commission, ten candidates, Commissioner Wade assisting.

Orange county, April 17th: Examination for county probation officer, conducted by the State Civil Service Commission, seventeen candidates, the secretary, Mr. Chute, assisting.

Westchester county, June 5th: Examination by the State Civil Service Commission for county probation officer, forty-two candidates, the secretary, Mr. Chute, assisting.

Buffalo, August 12th: Examination for Polish city probation officer, conducted by the municipal civil service commission, ten candidates, Commissioner Wade assisting.

Bronx county, September 3 and 4: Examination for county probation officer, conducted by the State Civil Service Commission, 105 candidates, the secretary, Mr. Chute, assisting.

Albany, October 29th: Examination for woman probation officer, conducted by the municipal civil service commission, twenty candidates, the secretary, Mr. Chute, assisting.

DEVELOPMENTS OF THE YEAR RELATING TO PROBATION

The year 1915 was one of progress in the development of a successful probation system in the courts of the State. Progress is shown in the number of persons cared for on probation which exceeds that of any previous year by 159, in the number of cities, counties, towns and villages using probation, and especially in the increased number of salaried probation officers. The general figures showing the use of probation during the past fiscal year compared with those of the preceding year are shown in the table which follows:

GENERAL STATISTICAL SUMMARY

	Year ending September 30, 1914	Year ending September 30, 1915
Persons continued on probation from previous year.....	8,663	*10,933
Persons placed on probation during year.....	18,549	18,708
Persons on probation part or all of year.....	27,212	29,641
Persons passed from probation during year.....	16,287	17,734
Persons remaining on probation at end of year.....	10,925	11,907
Percentage of those who passed from probation, in which results were reported, who completed their terms and were discharged as improved.....	78.1%	78.3%
Cities using probation in local courts.....	37	44
Counties using probation in county or supreme court, or both...	45	46
Counties using probation in town or village courts.....	35	36
Publicly salaried probation officers at end of year.....	164	174
Probation officers detailed from other branches of public service.	8	8
Volunteer probation officers having cases during year.....	299	236
Cases investigated by probation officers before sentence.....	24,903	26,843
Home visits made by probation officers.....		88,336
Amount collected by probation officers for family support.....	\$96,768 95	\$102,988 85
Amount collected by probation officers in instalments for pay- ment of fines.....	17,567 80	18,598 50
Amount collected by probation officers for restitution.....	19,216 04	27,815 74
Total collected by probation officers.....	\$133,552 79	\$149,403 09

* Including eight cases continued on probation from the preceding year, but not reported until after September 30, 1914.

The number of boys under sixteen, girls under sixteen, men and women who received the benefits of probation during the year is shown in the next table.

SEX AND AGE OF PROBATIONERS

	Boys	Girls	Men	Women	Total
Continued on probation from September 30, 1914.	2,413	368	7,373	779	10,933
Placed on probation during year ending Septem- ber 30, 1915.....	5,108	614	11,281	1,705	18,708
Total on probation during year.....	7,521	982	18,654	2,484	29,641
Passed from probation during year.....	4,906	572	10,687	1,569	17,734
Remaining on probation on September 30, 1915.	2,615	410	7,967	915	11,907

Chart I shows the proportion of boys, girls, men and women in the entire State and in the different groups of courts in the State.

GAINS DURING THE PAST YEAR

It is interesting to note that every figure in the general statistical table shows an increase over the preceding year, except in the number of volunteer and detailed probation officers serving in the

CHART I
NUMBER OF PERSONS PLACED ON PROBATION
 YEAR ENDING SEPTEMBER 30, 1918

ENTIRE STATE

LOWER COURTS OF
 NEW YORK CITY

LOWER COURTS OF
 OTHER CITIES

HIGHER COURTS OF
 NEW YORK CITY

HIGHER COURTS
 OUTSIDE OF
 NEW YORK CITY

COURTS OF TOWNS
 AND VILLAGES



BOYS



GIRLS



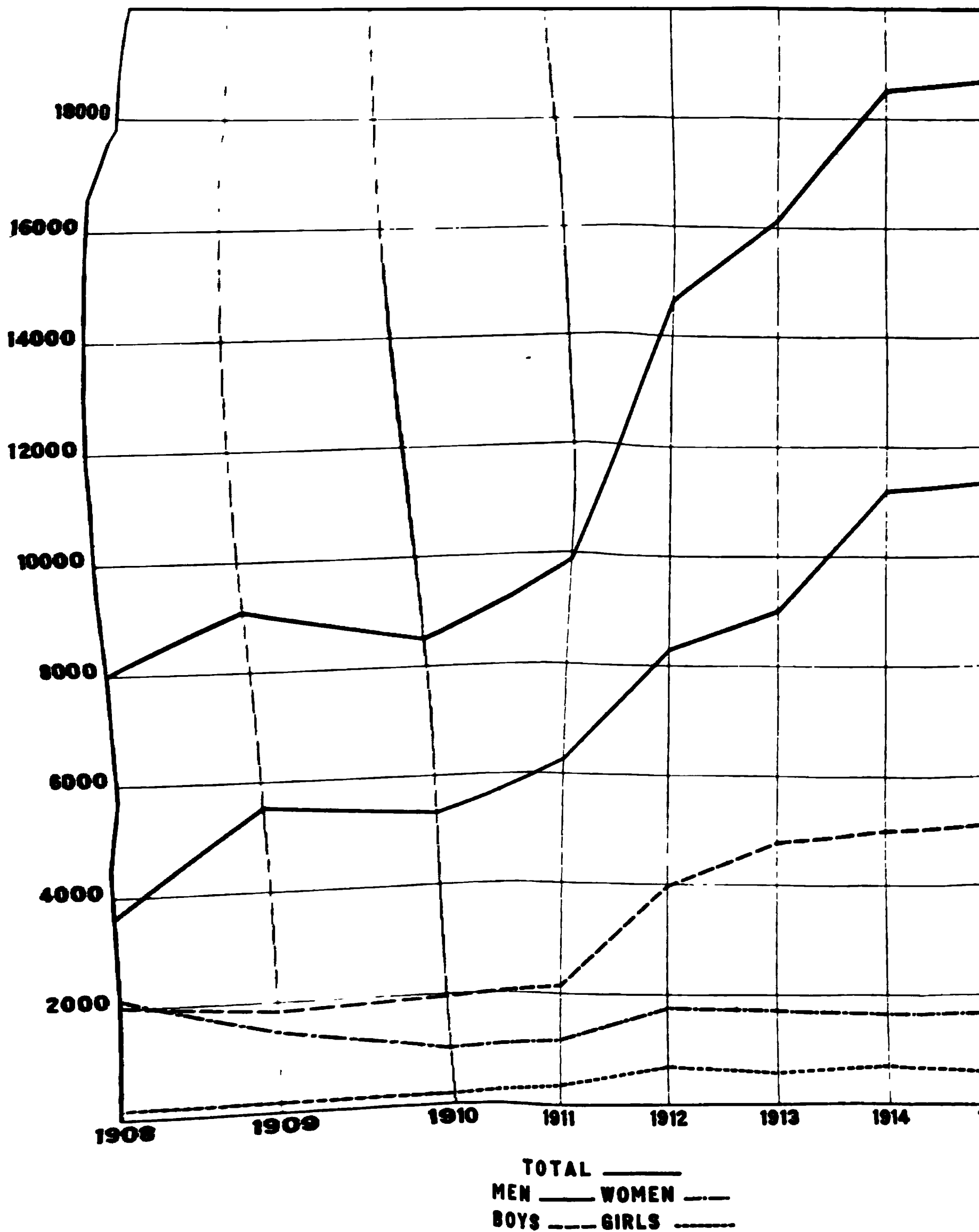
MEN



WOMEN



CHART II
VARIATIONS IN NUMBERS PLACED ON
PROBATION IN EIGHT YEARS



courts. The work of many volunteers giving a little time has been taken over in many instances by salaried, full-time officers to the great improvement of the probation work, both in quantity and quality. The number of salaried probation officers shows a net increase of ten. The total number of persons cared for part or all of the year by probation officers increased by 2,429 or 8.9 per cent. The number actually on probation at the end of the year increased by 974, or 8.9 per cent. More cities, counties, towns and villages used probation than during the preceding year or any previous year. Investigations by probation officers and money collections of all kinds increased.

The number of persons placed on probation divided between children and adults for each year since the Commission has collected complete statistics is shown in the following table:

NUMBER OF PERSONS PLACED ON PROBATION

YEAR ENDING SEPTEMBER 30	Children	Adults	Total
1908.....	2,188	5,859	8,047
1909.....	2,056	7,059	9,115
1910.....	2,177	6,347	8,524
1911.....	2,489	7,411	9,900
1912.....	4,647	10,040	14,687
1913.....	5,405	10,739	16,144
1914.....	5,714	12,835	18,549
1915.....	5,722	12,986	18,708
Total.....	30,398	73,276	103,674

It is seen that in eight years' time 103,674 persons received the benefits of probation. Chart No. II, which follows, makes clear this remarkable growth.

NEW POSITIONS CREATED

During 1915 there were sixteen new salaried probation officers' positions created in the State as follows: a woman probation officer for the city of Ithaca; an additional woman probation officer for the Magistrates Courts, First Division, New York City; five additional male probation officers for the New York City Childrens Court; five new probation officers, two women and three men, added to the staff of the Buffalo City Court; the position of county probation officer established for Orange county; the position of

county probation officer established in Westchester county; Polish speaking male probation officer added to the staff of the Erie county probation office; an additional county probation officer serving under the title of county detective provided for the Bronx County Court. During the year the positions of seven women probation officers were abolished in the New York City Magistrates Courts, Second Division. There was a net gain of nine new positions during the year. In addition to the above, five probation officers were appointed to positions newly created during the previous year, and there were eight appointments to succeed salaried officers.

Better salaries than before were established for most of the new positions created during the past year. A minimum of \$1,200 is now paid to all probation officers starting work in New York City. The same was paid to the male probation officers appointed in the City Court of Buffalo. Salaries from \$900 to \$1,500 were provided for the new positions of county probation officer established last year.

Thirty-five probation officers received salary increases during the past year.

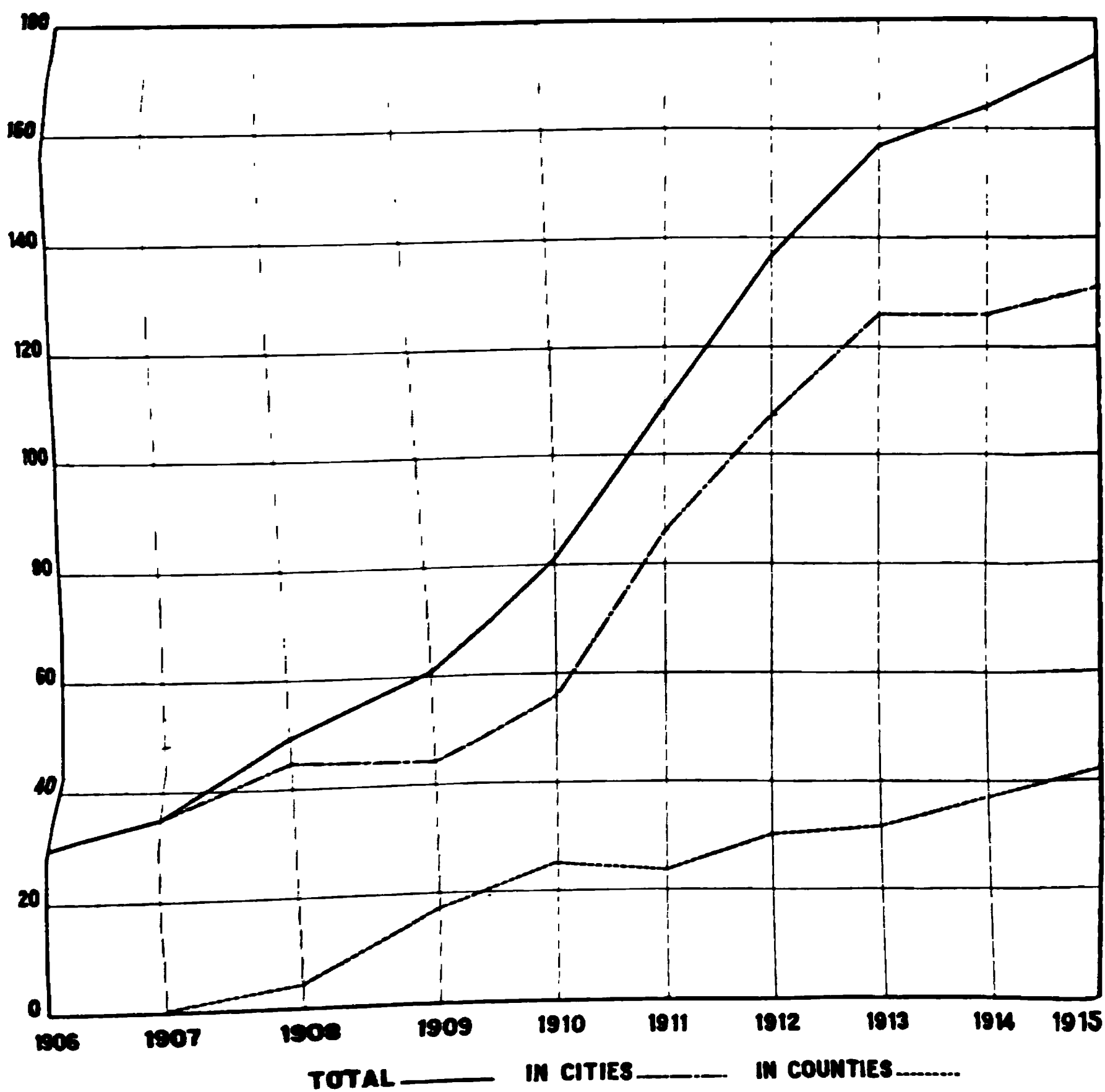
Fifty-seven new volunteer probation officers were appointed and eight resigned.

The following table shows the steady increase in the number of salaried officers serving at the end of each fiscal year. The totals include only those publicly salaried for probation work and not those detailed from other branches of the public service:

PUBLICLY SALARIED PROBATION OFFICERS THROUGHOUT THE STATE

SERVING ON	
December 31, 1906.....	30
December 31, 1907.....	35
December 31, 1908.....	49
December 31, 1909.....	61
December 31, 1910.....	81
December 31, 1911.....	109
September 30, 1912.....	137
September 30, 1913.....	157
September 30, 1914.....	164
September 30, 1915.....	174

CHART III
INCREASE IN SALARIED PROBATION
OFFICERS IN TEN YEARS



The only cities in the State of 20,000 population or over not as yet employing salaried probation officers are as follows: Schenectady, Troy, Niagara Falls, Elmira, New Rochelle, Oswego, Cohoes, Rome and Gloversville.

Of the sixty-two counties of the State, thirty-three now employ salaried county probation officers.*

COURTS USING PROBATION

Of the persons placed on probation during the past year, the following table shows the distribution by groups of courts:

NUMBER OF PERSONS PLACED ON PROBATION DURING THE YEAR
BY GROUPS OF COURTS

	Boys	Girls	Men	Women	Total	Per cent
Lower courts of New York City.....	3,609	475	5,255	1,035	10,374	55.5
Higher courts in New York City.....	.....	.....	1,131	77	1,208	6.5
Courts of other cities.....	1,187	77	3,639	563	5,466	29.2
County and Supreme Court outside New York City.....	192	46	893	19	1,150	6.1
Courts of towns and villages.....	120	16	363	11	510	2.7
Entire state.....	5,108	614	11,281	1,705	18,708	100.0

From the above it is seen that 62 per cent. of all cases are from the courts of New York City; 29.2 per cent. were received from other city courts; 6.1 per cent. from county and Supreme courts outside New York City and only 2.7 per cent, from the courts of towns and villages. The great bulk of cases comes from the cities principally the larger cities. This is probably not because of the disproportionately greater percentage of criminality in the larger cities, but because of the fact that crime and delinquency is more looked after in the cities, especially in so far as the use of probation is concerned. The probation system began in the cities and has been chiefly developed there. The Commission has constantly labored to extend the probation service to the smaller cities and rural districts of the State, believing that on account of the successful development of the work in the cities the need has now become greatest in the rural districts.

* Three counties, Kings, Queens and Bronx employed county detectives detailed as probation officers.

During the past year all of the fifty cities of the State of over 10,000 population used probation, except the following six: White Plains, Olean, Glens Falls, Little Falls, Rensselaer and Oneonta. Out of the sixty-two counties in the State, forty-six used probation in their higher courts and thirty-six in one or more town and village courts. The courts in the following cities which used no probation in 1914 reported cases last year: Beacon, Canandaigua, Lockport, Middletown, New Rochelle, North Tonawanda and Ogdensburg. There were no cities which discontinued the use of probation in 1915. Cities showing the largest gains in the number of cases placed on probation were Hornell, Kingston, Lackawanna, Newburgh and Niagara Falls.

The counties of Delaware and Niagara used probation regularly for the first time last year. Counties showing the largest increase in the use of probation in their county and Supreme Courts were Bronx, Dutchess, New York (Court of General Sessions), Orange, St. Lawrence and Steuben.

Counties which reported cases placed on probation from the justices' courts of the towns or villages last year, but not in 1914, were Chautauqua, Chenango, Rensselaer, Essex and Sullivan. On the other hand, four counties, Genesee, Greene, Livingston and Yates, did not place cases last year but did so previously. Counties showing the largest gain in rural work were Cortland, Dutchess, Franklin, Onondaga, Nassau, Suffolk and Orange.

The explanation for all these gains is generally to be found in the employment of salaried probation officers for the first time. The table which follows shows the widespread use of probation in the various courts of the State:

NUMBER OF PERSONS PLACED ON PROBATION DURING THE YEAR
ENDING SEPTEMBER 30, 1915. ARRANGED BY PLACES

PLACES	Courts	Boys	Girls	Men	Women	Total
<i>Cities</i>						
Albany.....	Police.....	41	4	15	13	73
Amsterdam.....	Recorder's.....	34	.....	40	10	84
Auburn.....	Recorder's.....	12	.....	55	9	76
Batavia.....	Police.....	30	.....	.....	.....	30
Beacon.....	City.....	.....	1	.....	.....	1
Binghamton.....	City.....	10	2	24	22	58
Buffalo.....	Children's.....	196	14	24	36	270
Buffalo.....	City.....	.....	.....	2,070	243	2,313
Canandaigua.....	Police.....	.....	.....	1	.....	1

PLACES	Courts	Boys	Girls	Men	Women	Total
Cities—Continued						
Cohoes.....	Recorder's.....	9	1	.....	.....	10
Corning.....	City.....	8	.....	22	2	32
Cortland.....	City.....	2	1	39	2	44
Elmira.....	Recorder's.....	15	.....	30	2	47
Fulton.....	City.....	.....	.....	.....	1	1
Gloversville.....	Recorder's.....	.....	.....	20	3	23
Hornell.....	Recorder's.....	8	.....	17	3	28
Hudson.....	City.....	11	.....	.....	.....	11
Ithaca.....	City.....	21	3	4	8	36
Jamestown.....	Police.....	28	.....	56	3	87
Johnstown.....	Recorder's.....	9	.....	1	.....	10
Kingston.....	Recorder's.....	66	.....	8	1	75
Lackawanna.....	City.....	45	6	189	41	281
Lockport.....	Police.....	.....	.....	10	.....	10
Middletown.....	Recorder's.....	.....	.....	4	.....	4
Mount Vernon.....	City.....	45	4	60	9	118
Newburgh.....	Recorder's.....	27	.....	34	1	62
New Rochelle.....	City.....	17	.....	6	.....	23
New York City.....	Board of Magistrates, 1st Division.....	.....	.....	1,501	486	1,987
New York City.....	Board of Magistrates, 2nd Division.....	.....	.....	2,654	398	3,052
New York City.....	Special Sessions, Manhattan.....	.....	.....	549	104	653
New York City.....	Special Sessions, Brooklyn.....	.....	.....	407	35	442
New York City.....	Special Sessions, Queens.....	.....	.....	61	1	62
New York City.....	Special Sessions, Richmond.....	.....	.....	19	1	20
New York City.....	Special Sessions, Bronx.....	.....	.....	64	10	74
New York City.....	Children's, New York County.....	1,601	189	.....	.....	1,790
New York City.....	Children's, Kings County.....	1,187	122	.....	.....	1,309
New York City.....	Children's, Queens County.....	232	48	.....	.....	280
New York City.....	Children's, Richmond County.....	164	80	.....	.....	244
New York City.....	Children's, Bronx County.....	425	36	.....	.....	461
Niagara Falls.....	Police.....	2	1	27	1	31
North Tonawanda.....	City.....	2	.....	22	8	32
Norwich.....	Police.....	2	.....	25	2	29
Ogdensburg.....	Recorder's.....	2	.....	16	.....	18
Oswego.....	Recorder's.....	.....	.....	3	.....	3
Plattsburg.....	City.....	4	.....	34	5	43
Poughkeepsie.....	City.....	42	4	32	.....	78
Rochester.....	Police.....	.....	.....	221	88	309
Rome.....	City.....	16	2	6	.....	24
Saratoga Springs.....	City.....	5	.....	36	1	42
Schenectady.....	Police.....	67	7	22	4	100
Syracuse.....	Special Sessions.....	92	13	223	27	355
Troy.....	City.....	68	.....	10	.....	78
Utica.....	City.....	103	5	134	9	251
Watertown.....	City.....	5	2	16	5	28
Watervliet.....	City.....	2	.....	1	.....	3
Yonkers.....	City.....	141	7	82	4	234
Totals for cities.....		4,796	552	8,894	1,598	15,840
Towns and Villages in—						
Albany county.....	Justices'.....	5	.....	1	.....	6
Cayuga county.....	Justices'.....	.....	.....	2	.....	2
Clinton county.....	Justices'.....	7	.....	6	.....	13
Cortland county.....	Justices'.....	.....	.....	51	1	52
Dutchess county.....	Justices'.....	16	.....	65	3	84
Erie county.....	Justices'.....	1	.....	2	.....	3
Franklin county.....	Justices'.....	6	1	.....	.....	7
Fulton county.....	Justices'.....	.....	.....	2	.....	2
Lewis county.....	Justices'.....	.....	1	7	.....	8
Montgomery county.....	Justices'.....	1	.....	.....	.....	1
Niagara county.....	Justices'.....	.....	.....	3	.....	3
Oneida county.....	Justices'.....	2	.....	28	1	31
Onondaga county.....	Justices'.....	4	.....	24	.....	28
Orange county.....	Justices'.....	.....	.....	8	.....	8
Rockland county.....	Justices'.....	1	.....	.....	.....	1
St. Lawrence county.....	Justices'.....	.....	.....	4	.....	4
Schenectady county.....	Justices'.....	9	.....	.....	.....	9
Steuben county.....	Justices'.....	1	.....	5	.....	6
Suffolk county.....	Justices'.....	10	.....	3	.....	13

PLACES	Courts	Boys	Girls	Men	Women	Total
<i>Villages</i>						
Attica.....	Police.....	.....	.....	5	.....	5
Dobbs Ferry.....	Police.....	2	.....	1	.....	3
Elmira Heights.....	Police.....	4	.....	3	.....	7
Falconer.....	Police.....	3	1	.....	.....	4
Goshen.....	Police.....	.....	.....	3	.....	3
Hamburg.....	Police.....	.....	.....	1	.....	1
Hosack Falls.....	Police.....	.....	.....	5	1	6
Lyons.....	Police.....	1	.....	.....	.....	1
Manlius.....	Police.....	4	1	1	.....	6
Mineola.....	Police.....	2	1	1	.....	4
Owego.....	Police.....	2	.....	.....	.....	2
Perry.....	Police.....	.....	.....	3	.....	3
Pleasantville.....	Police.....	1	1	10	.....	12
Port Chester.....	Police.....	1	.....	3	3	7
Potdam.....	Police.....	1	2	.....	.....	3
Rye.....	Police.....	.....	.....	4	.....	4
St. Johnsville.....	Police.....	.....	.....	52	.....	52
South Nyack.....	Police.....	2	.....	1	1	4
Suffern.....	Police.....	.....	.....	2	.....	2
Tuckahoe.....	Police.....	4	.....	.....	.....	4
Walton.....	Police.....	1	.....	1	.....	2
Waverly.....	Police.....	3	.....	.....	.....	3
<i>Towns</i>						
Allegany county.....	Town of Cuba.....	.....	.....	4	.....	4
Cattaraugus county.....	Town of Dayton.....	.....	.....	1	.....	1
Cattaraugus county.....	Town of Persia.....	.....	.....	13	.....	13
Chautauqua county.....	Town of Ellicott.....	2	.....	.....	.....	2
Chenango county.....	Town of New Berlin.....	1	3	1	.....	5
Delaware county.....	Town of Sidney.....	.....	.....	5	.....	5
Essex county.....	Town of Moriah.....	.....	.....	2	.....	2
Herkimer county.....	Town of Manheim.....	3	.....	.....	.....	3
Jefferson county.....	Town of Alexandria.....	1	.....	.....	.....	1
Jefferson county.....	Town of Wilna.....	2	.....	.....	.....	2
Nassau county.....	Town of Hempstead.....	5	3	.....	.....	8
Nassau county.....	Town of North Hempstead.....	3	1	.....	.....	4
Nassau county.....	Town of Oyster Bay.....	.....	.....	2	.....	2
Niagara county.....	Town of Lewiston.....	1	.....	1	.....	2
Niagara county.....	Town of Niagara.....	.....	.....	1	.....	1
Rensselaer county.....	Town of Berlin.....	.....	.....	1	.....	1
Saratoga county.....	Town of Corinth.....	.....	1	5	.....	6
Saratoga county.....	Town of Milton.....	2	.....	19	1	22
Saratoga county.....	Town of Moreau.....	.....	.....	1	.....	1
Sullivan county.....	Town of Thompson.....	1	.....	.....	.....	1
Westchester county.....	Town of Mamaroneck.....	5	.....	.....	.....	5
Totals for towns and villages.....	.....	120	16	363	11	510
<i>Counties</i>						
Albany.....	Supreme and County.....	.....	.....	46	1	47
Bronx.....	County.....	.....	.....	120	7	127
Broome.....	Supreme and County.....	.....	.....	16	.....	16
Cayuga.....	Supreme and County.....	.....	.....	5	.....	5
Chautauqua.....	Supreme and County.....	.....	.....	10	.....	10
Chenango.....	Supreme and County.....	.....	.....	3	.....	3
Clinton.....	Supreme and County.....	.....	.....	7	.....	7
Columbia.....	Supreme and County.....	.....	.....	5	.....	5
Cortland.....	Supreme and County.....	.....	.....	4	.....	4
Delaware.....	Supreme and County.....	.....	.....	12	1	13
Dutchess.....	Supreme and County.....	.....	.....	32	.....	32
Erie.....	Supreme and County.....	5	.....	242	3	250
Essex.....	County.....	.....	.....	15	1	16
Franklin.....	County.....	.....	.....	18	.....	18
Fulton.....	Supreme and County.....	.....	.....	8	.....	8
Genesee.....	Supreme and County.....	.....	.....	2	.....	2
Jefferson.....	Supreme and County.....	.....	.....	22	2	24
Kings.....	County.....	.....	.....	.....	2	2
Lewis.....	Supreme and County.....	.....	.....	5	.....	5
Madison.....	County.....	.....	.....	4	.....	4
Monroe.....	County.....	.....	.....	52	1	53
Monroe.....	County (Children's Part).....	166	43	.....	.....	209
Montgomery.....	Supreme and County.....	.....	.....	16	.....	16
Nassau.....	County.....	.....	.....	3	.....	3
New York.....	Supreme and General Sessions.....	.....	.....	927	66	993

PLACES	Courts	Boys	Girls	Men	Women	Total
Counties — Continued						
Niagara.....	Supreme and County.....	.....	.....	46	1	47
Oneida.....	Supreme and County.....	.....	.....	68	1	69
Onondaga.....	Supreme and County.....	.....	.....	63	.....	63
Ontario.....	Supreme and County.....	.....	.....	10	.....	10
Ontario.....	County (Children's Part).....	19	3	.....	.....	22
Orange.....	Supreme and County.....	1	.....	20	.....	21
Oswego.....	Supreme and County.....	.....	.....	26	3	29
Otsego.....	Supreme and County.....	.....	.....	3	.....	3
Queens.....	County.....	.....	.....	71	1	72
Rensselaer.....	Supreme and County.....	.....	.....	10	.....	10
Richmond.....	Supreme and County.....	.....	.....	13	1	14
Rockland.....	Supreme and County.....	.....	.....	4	1	5
St. Lawrence.....	Supreme and County.....	.....	.....	26	1	27
Saratoga.....	Supreme and County.....	.....	.....	11	.....	11
Seneca.....	Supreme and County.....	.....	.....	1	.....	1
Steuben.....	Supreme and County.....	.....	.....	17	1	18
Suffolk.....	Supreme and County.....	.....	.....	11	2	13
Tompkins.....	Supreme and County.....	.....	.....	9	.....	9
Ulster.....	Supreme and County.....	1	.....	4	.....	5
Warren.....	Supreme and County.....	.....	.....	3	.....	3
Wayne.....	County.....	.....	.....	3	.....	3
Westchester.....	Supreme and County.....	.....	.....	25	.....	25
Wyoming.....	Supreme and County.....	.....	.....	6	.....	6
Totals for Supreme and County Courts	.....	192	46	2,024	96	2,368
Grand total.....	.....	5,108	614	11,281	1,705	18,708

CHARGES AGAINST PERSONS PLACED ON PROBATION

The table which follows shows the reported charges against all adults placed on probation during the past year:

CLASSIFICATION OF CHARGES AGAINST ADULTS PLACED ON PROBATION DURING THE YEAR

CHARGES	Num- ber men	Per cent. men	Num- ber women	Per cent. women	Total adults	Per cent. adults
<i>Misdemeanors and Lesser Offenses</i>						
Assault, third degree.....	620	5.8	35	2.1	655	5.1
Disorderly conduct.....	1,998	17.7	259	15.2	2,257	17.4
Non-support.....	3,064	27.2	12	.7	3,076	23.7
Petit larceny.....	1,781	15.8	248	14.5	2,029	15.6
Prostitution.....	.....	.....	470	27.6	470	3.6
Public intoxication.....	1,139	10.1	333	19.5	1,472	11.3
Vagrancy.....	180	1.6	107	6.3	287	2.2
Violation of local ordinances.....	317	2.8	22	1.3	339	2.6
Other and unstated misdemeanors.....	870	7.7	166	9.7	1,036	8.0
Total misdemeanors, etc.....	9,969	88.4	1,652	96.9	11,621	89.5
<i>Felonies</i>						
Assault.....	139	1.2	5	.3	144	1.1
Burglary.....	409	3.6	3	.2	412	3.2
Forgery.....	98	.9	4	.3	102	.8
Grand larceny.....	289	2.6	24	1.4	313	2.4
Other and unstated felonies.....	377	3.3	17	1.0	394	3.0
Total felonies.....	1,312	11.6	53	3.1	1,365	10.5
Grand totals.....	11,281	100.0	1,705	100.0	12,986	100.0

It is evident that the leading offense for which men are placed on probation is that of non-support. Twenty-seven per cent. of all cases were for this offense. Putting it another way, probation is found to be most applicable in cases where men are brought to court for failure to live up to their family obligations. The number and percentage of non-support cases increased somewhat as compared with the preceding year.

Stealing in its various degrees is the second greatest cause for the use of probation among adults, considering petit larceny, grand larceny and burglary as grades of the same offense. Offenses against property bring more persons into court each year than any other causes and it is natural that a large number of these, in the majority of cases first offenders, should be given a chance to redeem themselves on probation.

The next cause for the use of probation is disorderly conduct followed by public intoxication. These are more or less related offenses. The number of persons placed on probation for public intoxication, as compared with those placed in 1914, decreased from 15.4 per cent. of all cases to 11.3 per cent. If this means that fewer confirmed drunkards are being treated under probation and more by institutional care, these figures are encouraging. The subject of the treatment of persons addicted to the use of drink and drugs is discussed further on in this report.

The leading charge in the cases of women placed on probation is prostitution. The number and percentage of cases placed for this offense is, however, considerably less than it was several years ago.

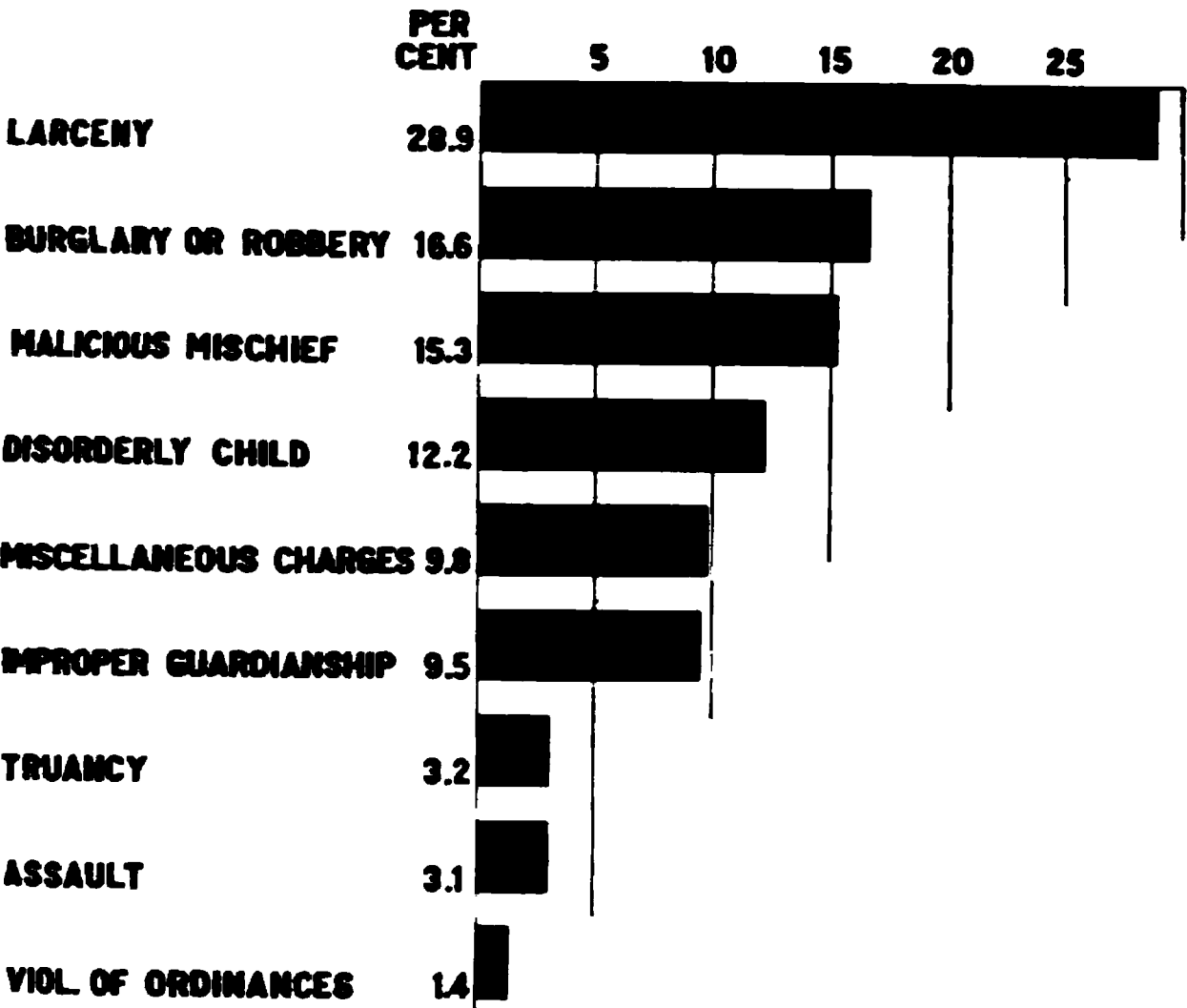
The following table shows the charges in cases of children placed on probation.

CLASSIFICATION OF CHARGES IN THE CASES OF CHILDREN PLACED ON PROBATION DURING THE YEAR

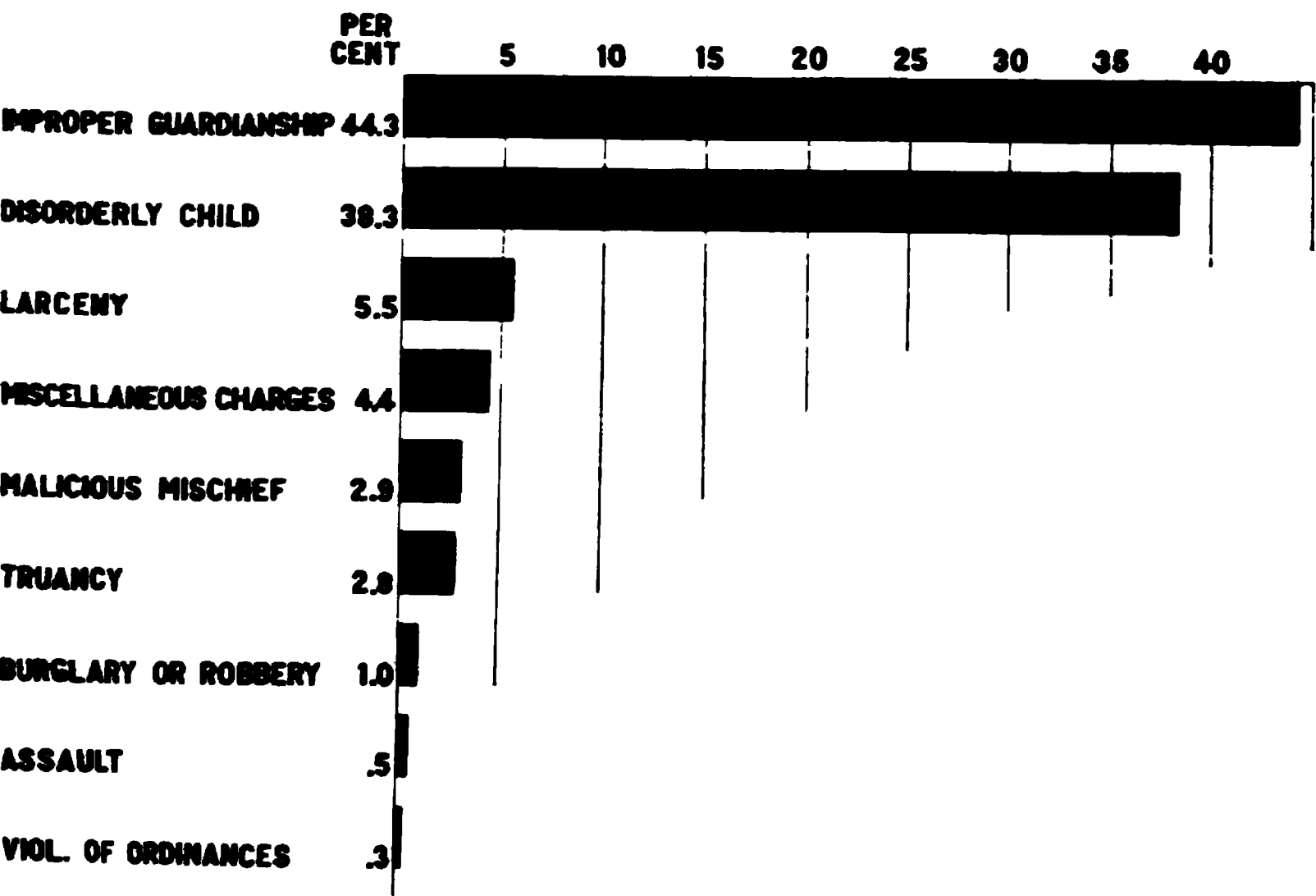
	Num- ber boys	Per cent. boys	Num- ber girls	Per cent. girls	Total chil- dren	Per cent. chil- dren
Assault.....	160	3.1	3	.5	163	2.8
Burglary or robbery.....	848	16.6	6	1.0	854	14.9
Disorderly or ungovernable child.....	624	12.2	235	38.3	859	15.0
Improper guardianship.....	484	9.5	272	44.3	756	13.2
Larceny and similar offenses.....	1,476	28.9	34	5.5	1,510	26.4
Malicious mischief.....	780	15.3	18	2.9	798	14.0
Truancy.....	161	3.2	17	2.8	178	3.1
Violations of local ordinances.....	73	1.4	2	.3	75	1.3
Other and unstated charges.....	502	9.8	27	4.4	529	9.3
Total.....	5,108	100.0	614	100.0	5,722	100.0

CHART IV

CHARGES IN CASES OF BOYS



CHARGES IN CASES OF GIRLS



Children may not be accused of crime in this State, but of juvenile delinquency only. The charges given above are, however, the correct description of the immediate acts or conditions which caused children to be placed on probation. From the above classification it is seen that the great cause for the use of probation among boys in the children's court is stealing. 45.5 per cent. of all the boys' cases were for the various grades of stealing. This is an increase over the percentage for the same offense last year which was 39 per cent. The principal charges in the girls' cases were improper guardianship and being disorderly and ungovernable.

The charts which precede show the relative frequency of the more common charges in probation cases during the year.

RESULTS OF PROBATION

During the past year 17,734 persons of all ages were discharged from probation. In every case the Commission requires a report from the probation officer, giving his estimate of the result of probation. The following table gives the results so reported.

ESTIMATED RESULTS IN ALL CASES PASSED FROM PROBATION DURING THE YEAR

ESTIMATED RESULTS	Boys	Girls	Men	Women	Total
Discharged with improvement.....	3,979	466	7,914	1,189	13,548
Discharged without improvement.....	101	7	727	65	900
Re-arrested and committed.....	713	89	1,166	172	2,140
Absconded or lost from oversight.....	24	1	571	117	713
Other and unstated results.....	89	9	303	24	425
Total.....	4,906	572	*10,681	*1,567	*17,726

* In addition to these figures, there were 8 persons (6 men and 2 women) who were transferred to probation officers in cities outside of New York State. Such transfers were as follows: 1 man from Albany county to New Jersey; 1 man from Erie county to New Jersey; 2 men from Erie county to Pennsylvania; 1 man from Erie county to Michigan; 1 man from Franklin county to Pennsylvania; 1 woman from Erie county to Pennsylvania; 1 woman from Plattsburg City to Vermont.

The failures, those re-arrested and committed or escaping from oversight, are accurately given. The classification of those completing their probationary period as to whether they are discharged with or without improvement depends upon the probation officers' judgments. Omitting the cases where the final results were unknown or un-reported, there were 17,301 cases where the results were stated. These are given in the following table:

RESULTS SHOWN BY PERCENTAGES IN THE 17,301 CASES DISCHARGED FROM PROBATION WHERE RESULTS WERE REPORTED

ESTIMATED RESULTS	Boys	Girls	Men	Women	Total
	<i>Per cent</i>	<i>Per cent</i>	<i>Per cent</i>	<i>Per cent</i>	<i>Per cent</i>
Discharged with improvement.....	82.6	82.8	76.3	77.1	78.3
Discharged without improvement.....	2.1	1.2	7.0	4.2	5.2
Rearrested and committed.....	14.8	15.8	11.2	11.1	12.4
Absconded or lost from oversight.....	.5	.2	5.5	7.6	4.1
Total.....	100.0	100.0	100.0	100.0	100.0

From the above table it is seen that 83.5 per cent. of all known cases completed their probationary terms and were discharged. According to the statement of the probation officers, 78.3 per cent. of all known cases were discharged with improvement and only 5.2 per cent. without improvement. It is probable that the judgment of the officers is not always correct, their tendency being to err on the side of optimism. The significant fact remains, however, that 78.3 per cent. of all known cases completed their terms of probation successfully and were discharged, and only 21.7 per cent. were probable failures, as far as the reported results indicate.

These percentages have varied remarkably little from year to year. In 1912, 79 per cent. were discharged with improvement; in 1913, 77.9 per cent.; in 1914, 78.1 per cent.

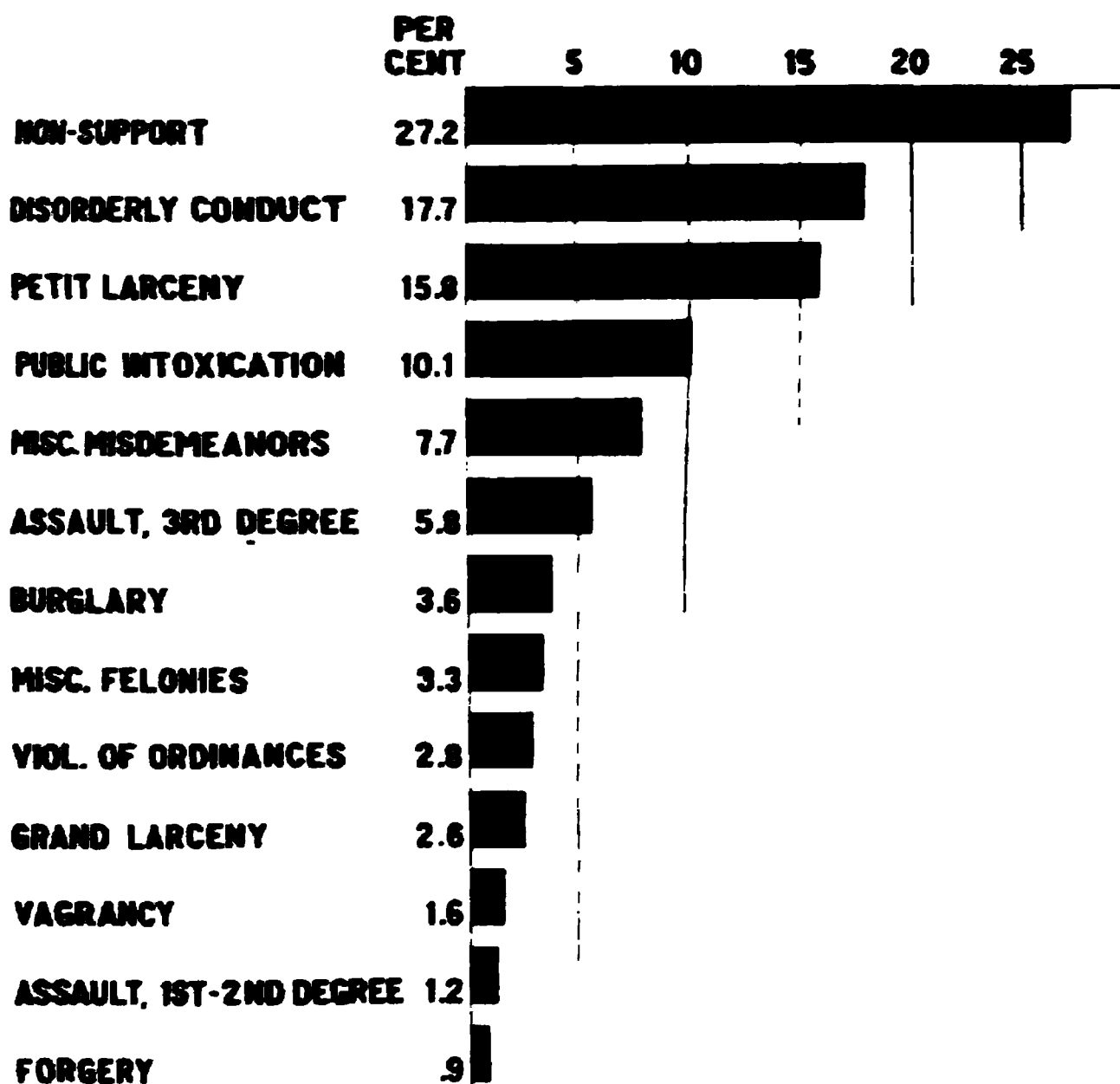
Chart VI which follows shows graphically the results in adult and children's cases separately.

STUDY OF RESULTS IN ERIE COUNTY

A significant study of the later history of probationers for several years after discharge from probation was completed by the Erie County Probation Office in September, 1915, under the direction of Chief Probation Officer Edwin J. Cooley. All persons (adult males only) placed on probation during a given month (October, 1912), who had completed their probation, were investigated two years and ten months after being placed on probation. In most of the cases a year or more had elapsed since their final discharge from probation. A full but discreet home investigation was made in every case that could be reached. Practically all of the men had been convicted of felonies and about 50 per cent. had had previous court records. In nearly all cases they had been

CHART V

CHARGES IN CASES OF MEN



CHARGES IN CASES OF WOMEN

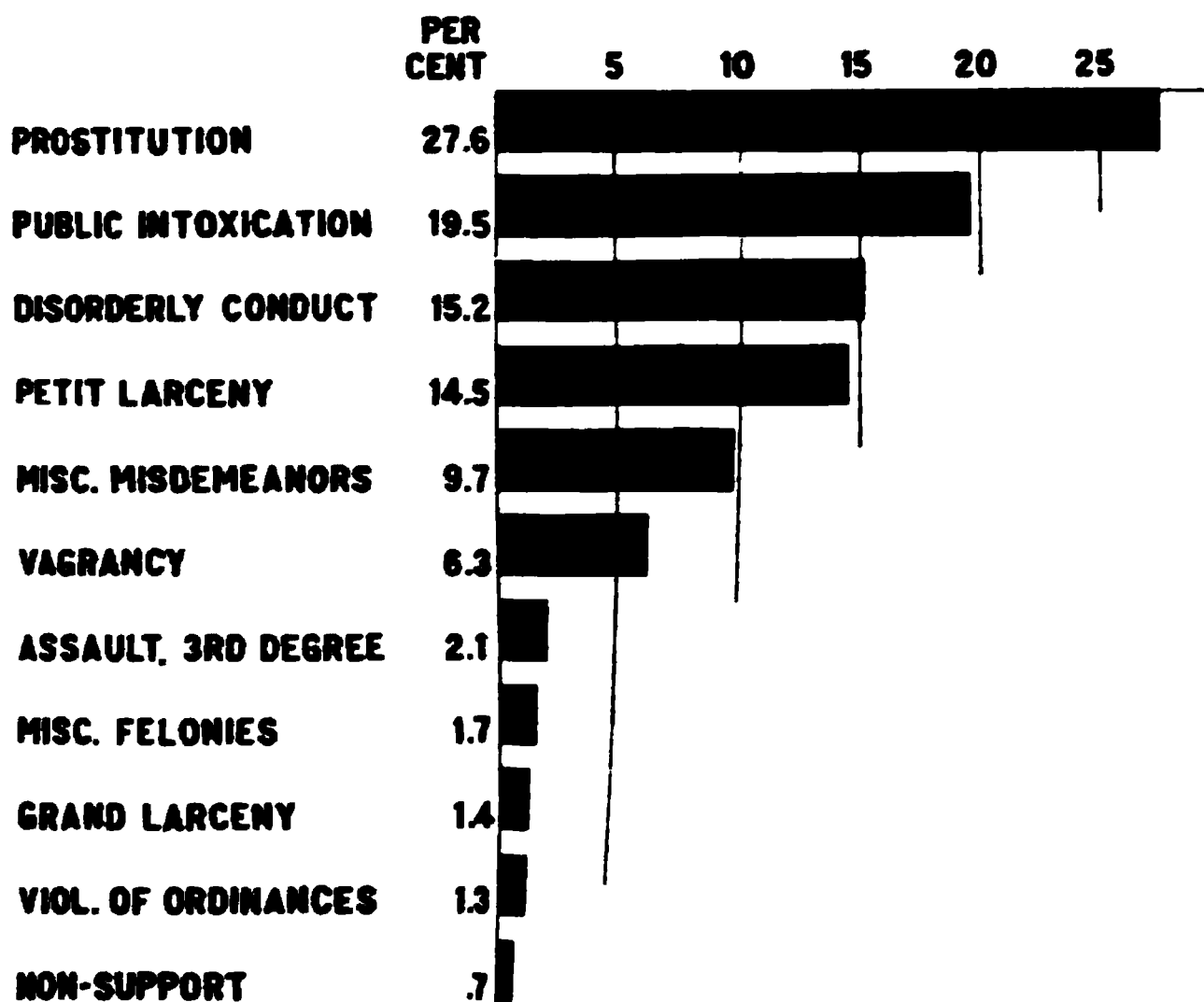
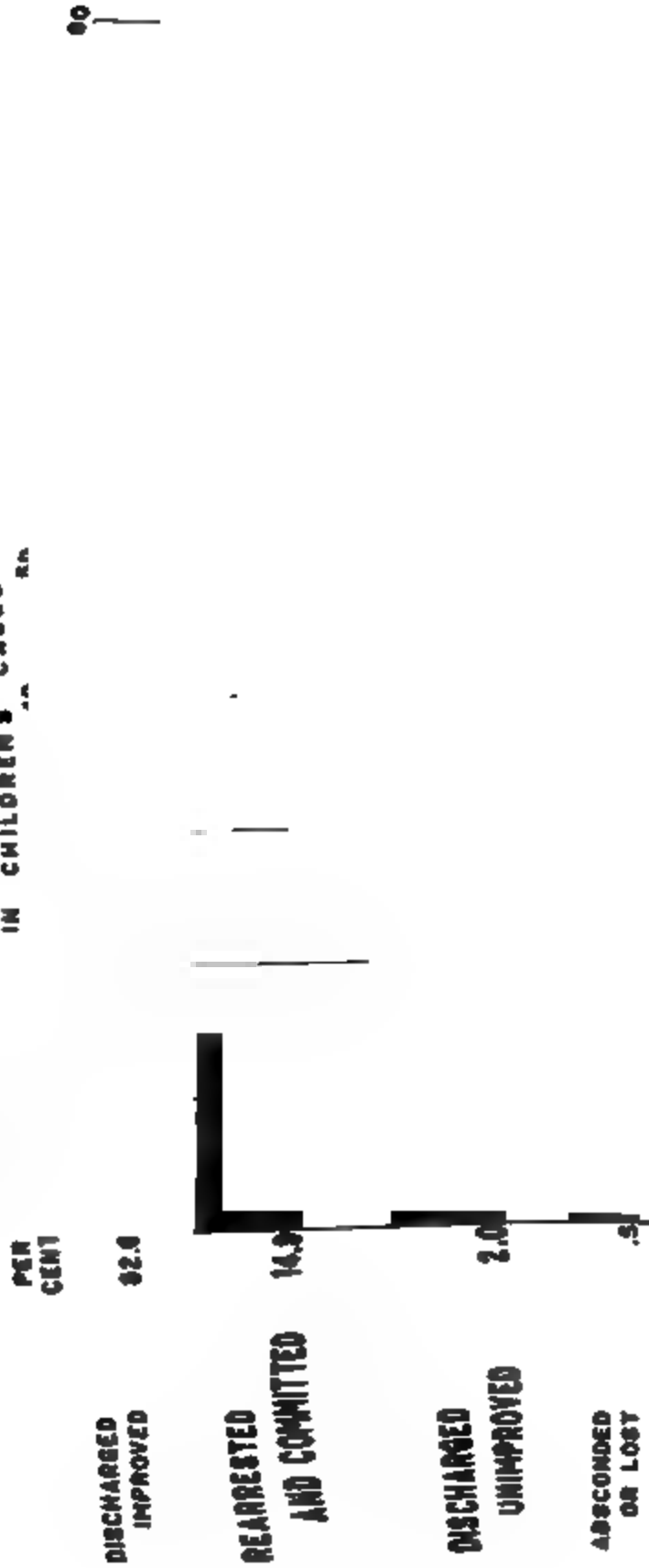


CHART VI
REPORTED RESULTS OF PROBATION
 IN CHILDREN'S CASES



PER IN ADULTS' CASES

on probation for a year or more and each had received thorough supervision and assistance by the probation officers during this period.

In all cases placed on probation during the given month which had completed their probation satisfactorily and had been regularly discharged from probation, 21 in number, the following results were shown:

<i>Classification</i>	<i>Number</i>	<i>Percentage</i>
Permanent improvement indicated.....	17	81
Fair improvement indicated.....	2	9.5
Rearrested and committed.....	1	4.75
Died	1	4.75
		<hr/>
Total	21	100.

Of the total number (28) placed on probation during the given month results could not be judged in three cases. Of the remaining 25, 17, or 68 per cent. were found permanently improved and re-established in society. Two others, or 8 per cent., showed fair improvement. Four were rearrested and committed during the probation period and only one after discharge from probation; one had absconded during the probation period.

In this investigation, probation was subjected to a severe and critical test. The cases were difficult, but had received thorough supervision. The probation period in most cases was adequate and the final investigation was made long enough after the discharge from probation to show real results.

A history of each case and a full report of the investigation is given in Appendix F.

THE COLLECTION OF MONEY BY PROBATION OFFICERS

The collection and disbursement of money has become one of the most important features of the work of nearly all probation officers handling adults. The mis-use of money and time is one causative factor of a great deal of crime and delinquency. It is the probation officer's task to correct this, so far as possible, through helpful advice, securing of employment, and when the court so orders, by requiring regular payments for family support, fines or restitution.

A total of \$149,403.09 passed through the hands of probation officers in the State last year. This amount has increased rapidly

each year due to the employment of more salaried officers. Obviously, the responsibility of handling this money should be entrusted only to regular salaried officers of the court. Probation officers of the State have generally adopted the thorough-going system of books and records recommended by the Commission for keeping accurate and detailed accounts of moneys handled. In most courts the accounts of probation officers are subject to audit. Both features are essential to guard the system from criticism and abuse.

The probation office should not be made a collection agency. The mere collection of money for fines, restitution and family support without the necessity for helpful oversight of the offender or of his family should not be imposed upon the probation officer, as is done in some courts. This should be done by a clerk of the court, leaving the probation officer free for his more important duties. In most cases, however, where the court orders the payment of regular instalments for any of the above purposes, it is done, in part, for its disciplinary value to the offender, or, in the case of fines and restitution, to satisfy the ends of justice. In that case it has a very real disciplinary and educational value which a tactful probation officer finds not only not inconsistent with his friendly and helpful relations with the offender under his care, but finds of assistance to him in his work by making probation a serious and practical matter.

During the past year the collection of money for restitution to complainants or others who had been injured or who had suffered loss through the act of the probationer increased 44 per cent. and was considerably larger than in any previous year. The Commission has always recommended this form of doing justice. It teaches the probationer a lesson while at the same time it offers some degree of reparation to the complainant. Probation has sometimes been criticised as satisfying all parties except the complainant. Very naturally, he feels the smart of a defendant's wrongful act. Rightly or not, he seeks reparation. Under the system of restitution or reparation for actual loss or damages on the part of the probationer, the complainant is almost always better pleased than by the imposition of the maximum penalty. Restitution, however, should be ordered with a view chiefly to teach the offender a lesson rather than to satisfy the complainant in order to make

probation effective as a deterrent from further crime. In most instances the judges of the State seem to be so using the system.

The collection of fines on the instalment plan avoids imprisonment for non-ability to pay which in effect is in no substantial way different from imprisonment for debt. It increases the revenues of the city or the county, and what is more important, gives the probation officer an opportunity to influence and direct the offender

while paying his fine. The amounts collected for fines have increased each year and the practice should be still further extended.

The collection of money for family support overshadows the other collections in importance and is perhaps the most essential feature in the solution of domestic relations cases. Thousands of families are each year supported without recourse to public or private charity through the operations of the probation system. Its work has assumed tremendous proportions in the larger cities. In the city of Buffalo all family support money is handled directly by the probation officers. In the Domestic Relations Courts of New York City moneys are collected and paid out at the offices of the department of charities, the probation officers visiting the cases, and co-operating with the department of charities in the investigations and in securing the prompt enforcement of the court orders. In addition to the \$102,988.85 actually handled by probation officers last year and paid over to the support of the wives and children of probationers, very much larger sums, as are shown in the table below, were collected by the department of charities in cases under the supervision of probation officers. A still larger sum was paid by probationers directly to their wives under the orders of the court and the supervision of the probation officers. These amounts are shown in the table which follows:

MONEY PAID BY PROBATIONERS FOR FAMILY SUPPORT UNDER COURT ORDERS

Collected from probationers and paid to beneficiaries by probation officers.....	\$102,988 85
Collected from probationers and paid to beneficiaries by the Department of Charities, New York City Magistrates' Courts, First Division.....	50,435 71
Collected from probationers and paid to beneficiaries by the Department of Charities, New York City Magistrates' Courts, Second Division.....	112,095 84
Paid by probationers direct to beneficiaries under court orders.....	157,340 69
To all.....	\$422,862 09

*Not complete. No record of these payments is kept in certain courts.

LOCAL DEVELOPMENTS THROUGHOUT THE STATE

Important developments affecting the probation work have occurred in many courts throughout the State. A brief account of the more important is here given:

NEW YORK CITY

The probation work of all the courts has been increasing and better standards are being established. The effort to standardize the salaries of all probation officers in the city has been largely successful. A minimum salary of \$1,200 has been fixed for both men and women probation officers starting work. Approximately two-thirds of the officers after passing a promotion examination have had their salaries increased to \$1,500 and all who have passed the examination are granted an increase by the city budget for 1916. Additional officers have been provided in several courts to meet urgent needs.

The work of the New York City Parole Commission established last year to have jurisdiction over all persons paroled from the Penitentiary, Reformatory and Work-house, will have an important relation to probation work. At the close of the year the commission was employing seven parol officers. Close co-operation should exist between these officers and the probation officers. The State Probation Commission has been represented at conferences called by the mayor to propose plans for bringing about closer co-ordination between the probation and the parole work. We believe that everything possible should be done to bring about some degree of co-ordination without in any way handicapping either branch of work.

Magistrates Courts

The bringing of all the Magistrates Courts of the city under one board of magistrates under the direction of Chief City Magistrate McAdoo, doing away with the two divisions, will bring about among other gains a unification and standardization of the probation work. The budget for 1916 provides for a chief probation officer for the entire city, with two positions of deputy chief probation officer. With an experienced and able chief probation officer in charge of the entire work, great improvements may be expected next year.

THE CHILDREN'S COURT, MANHATTAN, NEW YORK CITY.

THE NEW BUILDING AT 137 EAST 22ND STREET.



During the past year the work of the first division (Manhattan and Bronx), has been thoroughly systematized. A new record system has been established. The men work with admirable *esprit de corps*. In the Night Court for Women and in the Domestic Relations Court women probation officers are in attendance at all times. An excellent system of co-operation with representatives of private organizations has been worked out by Miss Alice C. Smith, probation officer in charge in the Night Court.

An investigation by the Commission shows that the collection of money in non-support cases which is directly carried on by the department of charities is closely watched by the probation officers and good co-operation exists. The centralized plan for all the officers, aside from the Night Court and the Domestic Relations Court, has proven thoroughly effective.

During the past year probation work in the second division (Brooklyn, Queens and Richmond), has been badly disorganized by the dropping of eleven women probation officers and the failure to appoint four additional men probation officers provided for by the board of estimate and apportionment. The result has been the overworking of probation officers, especially in the Domestic Relations Court, where three persons are attempting to do the work of seven. The Commission stated its belief last year that there had been too many women probation officers employed in these courts and not enough men, and that therefore substituting men for women officers was in the interest of efficiency, so that men only should handle men's cases. The dropping of so many women officers without adequate provision for taking over their work was, however, unfortunate. At the close of the year the prospects for a normal development of the work are brighter. Four new male officers, following the settlement of the controversy regarding the women's positions, have been appointed. A gradual centralization of probation work so far as consistent with the great geographical distance to be covered is recommended.

Children's Court

By amendments to the Inferior Criminal Courts Act of the City of New York, the Children's Court became on July 1st entirely separate from the adult court of Special Sessions, except

that the appointment of judges to the Children's Court must be from judges of the Court of Special Sessions. The separation of the court and the organization of its work for the entire city, the appointment of an additional judge and the provision in the budget for 1916 of a chief probation officer and two deputy chief probation officers, augur well for the increased efficiency of probation work in the greatest Children's Court in the world. Five new probation officers were added to the court during 1915, making a total of forty-one probation officers. All probation cases and most of the preliminary investigations are handled by the salaried officers of the court. In the fall of 1915 the Manhattan Children's Court moved into its beautiful and commodious new building on 22d Street of which we show illustration herewith. It is a model children's court building, of which the city and State of New York may well be proud.

Court of Special Sessions

At the request of the judges of the Probation Committee, a careful investigation of the probation work in the various parts of this court was made in the fall of 1915, and recommendations submitted. The Commission has recommended that the probation officers be not required to remain in the courts to make personal reports, believing that if freed from this duty they will have much more time for outside work. It has made a number of other recommendations, some of which have been followed by the judges. There is a lack of effective supervision and co-ordination of the work of the officers in this court.

Court of General Sessions

For several years the Commission has urged the judges of this court to request provision for regular salaried probation officers. After investigating the work, recommendations were sent to all the judges. After several hearings before committees of the Board of Estimate, action was taken by that body, providing salaries for nine probation officers and a chief probation officer to be appointed under civil service. We have taken the matter up repeatedly with the judges, and as this report goes to press the matter has not been finally adjusted, nor the new officers appointed.

THE CHILDREN'S COURT, MANHATTAN, NEW YORK CITY.

**PROBATION OFFICER RECEIVING REPORT FROM PROBATIONER. MOST CHILDREN
ON PROBATION REPORT WEEKLY TO THEIR PROBATION OFFICERS
IN THEIR PRIVATE ROOMS.**

**GENERAL PROBATION OFFICE AND CENTRAL BUREAU OF RECORDS SHOWING
STENOGRAPHER AND PROBATION OFFICER CONSULTING THE FILES. FOLDERS
CONTAINING THE PAPERS ON EACH CASE ARE FILED IN CABINETS
AT THE RIGHT, INDEX CARDS ON EACH CASE AT THE LEFT.**

The County Courts

The probation work in the county courts of Kings, Queens, Bronx and Richmond has not yet been standardized, or put on a proper salary basis. The Commission has investigated the work in all of these courts and endeavored to bring about standardization and provision for salaried probation officers, especially in the Kings County Court. In this court the need is very great for officers to do the follow-up work. Almost no real probation work is now being done. In the Bronx County Court efficient probation work is being done by county detectives who give their entire time to the work. There is very little to be desired in this system, except that the officers be given their proper titles. Recommendations have been made to the board of estimate and apportionment to bring about provision for regular salaried probation officers in all of the county courts. This will no doubt be brought about in the near future.

BUFFALO

Probably the largest gain for the probation service of the State was made last year by the increasing of the probation staff of the Buffalo City Court from six men to nine men and two women, with the addition of a cashier and stenographer, practically doubling the staff. The Commission urgently recommended provision for the new officers by resolutions and a statement sent to the judges and all the city officials. In co-operation with the judges and the chief probation officer, the vice-president and secretary of the Commission appeared at hearings conducted by a committee of the common council and before both branches of the council itself. The recommendations of the commission were finally adopted without change.

Following the appointments of the new officers, the secretary made an investigation of the probation work, with recommendations. A very great improvement in the quality of the work and, we believe, in the results attained, has already been evident. Officers who formerly were attempting to supervise 400 probation cases, now have about 150 cases, still too many. The number of home visits has increased 100 per cent., more and better investigations are made and case records made in all cases. Special clerical assistance and female probation officers are new features of the work of this office.

The Commission has long recommended that a new building for the Buffalo Municipal Detention Home for Children be provided by the city. The present building is unsuitable and unsafe. The work of the Buffalo Children's Court is handicapped. At the close of the year prospects are bright for the erection of a modern fireproof detention home by the city. It is hoped that adequate provision will be made in connection with the home for a playground and for instituting school work for the children detained for any length of time.

A feature of the Children's Court of Buffalo is its preventive work carried on both by the judge and by the probation officers. Addresses are given before the schools and employers and proprietors of moving picture houses, cigarette and newsdealers are warned concerning the laws for the protection of children. The probation officers co-operate with all agencies dealing with children. It would appear that the number of cases of delinquents has been considerably reduced by these means of prevention.

SYRACUSE

Marked improvements have been made in the administration and equipment of the Municipal Detention Home. Following an inspection and detailed recommendations by the secretary of the commission, additional appropriations were secured to improve the new quarters which had been provided by the city. The principal improvement was the employment for the first time of a housekeeper in addition to the man and woman employed as keepers. Bars have been removed from most of the windows of the Home, and it is made as much of a home as possible for the children who are detained. An experiment which has worked successfully has been the sending of children to the public schools unattended. Thus far they have always returned to the Home at the close of school.

The work of the probation officers for the Court of Special Sessions, which includes the Children's Court, is well organized and thorough. Effective work is done by a large number of volunteer workers, especially those known as the Big Sisters. The success of this work depends upon the active efforts and supervision of the chief probation officer.

THE SYRACUSE MUNICIPAL JUVENILE DETENTION HOME

**THE BUILDING AT 302 WEST WILLOW STREET.
JUVENILE COURT IS ALSO HELD HERE.**

PROBATION OFFICER RECEIVING REPORTS FROM BOYS AT THE HOME



ALBANY

The State lost a conscientious and faithful woman probation officer by the death in September of Mrs. Rose D. Fitzgerald of the Police Court. Her successor, who stood first as a result of a civil service examination, in which the Commission assisted, has taken up the work and developed it with much enthusiasm. Probation is largely used in this court. Some of the work, especially in non-support cases, is cared for by the court without the assistance of the probation officers.

UTICA

For four years the Commission has called attention to the great need that exists for a separate building for the detention and trial of children and for the probation offices. The old accommodations were entirely unsuitable and in fact harmful to the children involved. Appropriations made during 1913 and 1914 were never utilized and no steps were taken to meet the need. At the close of the year the matter was again taken up and another appropriation secured. As this report goes to press the home is about to open.

An increased salary for the chief probation officer in the Utica City Court has been provided. The salary had long been inadequate.

SCHENECTADY

This is the largest city in the State without a publicly salaried probation officer. The local agent of the Humane Society has done all the probation work, and has done it effectively in the past, but in the opinion of the Commission he is no longer able to carry on the increasing work in addition to his many other duties. An investigation and hearings before the city board of estimate and apportionment were conducted by the secretary of the Commission to secure an appropriation for the purpose by the city. No action has yet been taken.

BINGHAMTON

During the past year the city provided separate detention rooms for women and children. The woman probation officer of the city has handled many cases informally in addition to her regular probation work. The securing of employment, charitable relief and various other kinds of social service are carried on extensively.

ELMIRA

The need for regular salaried probation officers in this city still exists. The experience of other cities has proven without exception that the work of the probation officer should be carried on independently of the work of the police. In Elmira, as a temporary expedient, the chief of police was made probation officer. Investigation has shown that the results are as might be expected, that very little real probation work has been done. The matter was taken up during the past year with the city authorities and with various citizens and is still pending.

NEWBURGH

The new city probation officer was appointed and began his work in February, following the civil service examination in which the Commission assisted. Newburgh is a comparatively small city, having a population of 27,800. They have never had a salaried probation officer. Doubt was freely expressed by persons not in sympathy with the movement as to whether the new officer was needed. The records of the officer show that he has received in less than one year 92 probation cases and at the close of the year had under his care 66 cases; 29 juveniles and 37 adults. He has actually collected and paid over \$1,306.86 in non-support cases under his charge. In addition he has cared for 19 informal cases. His work has proven of great value to the city, in fact would now be considered a necessity. Newburgh has set an example to the other cities of the State and justified the belief of the Commission that all cities of 20,000 population should have a salaried probation officer giving his whole time to the work.

LACKAWANNA

In this industrial city of 15,737 population, a salaried probation officer gives his entire time to the work and had, at the end of the year, 99 cases under his care. During the past year his salary was increased. His work has met with the support and confidence of the people generally.

ITHACA

During the year the woman police officer of the city was designated probation officer by the city authorities and has been doing effective probation work in the Ithaca Police Court.

CHEMUNG COUNTY

The question of a county probation officer was taken up during the year with county officials, after an investigation. Such officer is greatly needed. The matter is still pending.

CLINTON COUNTY

The county probation officer has carried on extensive work in the higher courts in the city of Plattsburg and in the towns and villages. Twenty-three cases were received from the justices of the peace in nine towns.

CORTLAND COUNTY

Much rural work has been done by the county probation officer in this county. The number of cases received during the year from justices of the peace was 52 as compared with 18 during the previous year. Cases were received from 9 towns.

DELAWARE COUNTY

Provision for a county probation officer was taken up with the board of supervisors, but no action has yet been taken. The work of the volunteer county probation officer is being continued.

DUTCHESS COUNTY

The county pays an adequate salary to its officer and the work has been developed throughout the county. The number of cases received on probation from the higher courts increased from 4 in 1914 to 32 in 1915. The number of cases received from the courts of towns and villages increased from 29 to 84 during last year. The rural work has been developed considerably, cases being received from the justices of the peace in eleven different towns. This officer makes his rounds in an automobile and is in a position

to demonstrate the value and effectiveness of a county probation system, especially as applied to the rural districts. A complete system of financial records and blanks has been installed during the past year.

ERIE COUNTY

During the year a new Polish-speaking male probation officer was employed. The staff for the office now consists of the chief probation officer, five male probation officers and one woman officer, the largest staff for any county office. During the past year 42 per cent. of all cases tried in the Supreme and County Courts were placed on probation. Practically every case receives a thorough investigation before probation is used. The case study of 21 men, already referred to, which was conducted last summer, 81 per cent., from one to three years after their discharge from probation, were found to be re-established in society and making good. A complete report of this investigation is given in Appendix F.

MONROE COUNTY

An investigation of the work of the County Children's Court was made early in the fall by the secretary, the assistant secretary having previously investigated the needs in certain villages of the county. In the Children's Court Judge Stephens gives all cases brought before him careful attention. The court has an excellent staff of probation officers, a man and two women, who are able to do intensive work. An investigation was begun by the Commission as to the result of the work of the court upon delinquency in the rural districts, but was not continued, as a special investigation under an appropriation from the Federal Children's Bureau was begun late in the fall by an investigator from the New York School of Philanthropy. This investigation is not yet completed. It appears, however, that there is need for greater co-ordination between the work of the Children's Court, the justices of the peace, the police, the school authorities and others in the towns and villages. Only 4.2 per cent. of the cases handled

by the court during the past year resided outside the city of Rochester, the percentage of the population of the county residing without the city limits being 22.2. In spite of these criticisms, the Commission has been strongly in favor of the county Children's Court plan and believes that on the whole it has proven its effectiveness.

MONTGOMERY COUNTY

The Commission assisted in securing an increase in salary for the county probation officer and has sent out letters and literature to the justices of the peace and endeavored to secure the extension of this service in the rural districts.

NASSAU COUNTY

The secretary has interviewed persons interested in obtaining county probation service and has endeavored to secure action by the board of supervisors. Thus far the only result has been the appointment of a committee by the Nassau County Association and the securing of several volunteer probation officers to serve in a number of the villages. There is much need for salaried county probation officers in this county with its many large villages and suburban conditions.

NIAGARA COUNTY

Following a civil service examination in January, in which the Commission assisted, the first man on the list was appointed county probation officer. He has taken up the work with great energy and its growth has been truly remarkable. At the close of the year this officer had under his care 108 probationers. He had collected during his first ten months of service \$3,133.45 for fines, family support and for restitution. He has received cases from county and Supreme Courts and from the courts of the three cities of the county, Niagara Falls, Lockport and North Tonawanda. Officers have been established in each city where probationers may report.

The establishment of this office and the use of probation in many cases which would otherwise have been sent to jail has, in the opinion of the officials of the county, produced a remarkable

decrease in the number of persons confined in the county jail. On January 1, 1915, there was 135 inmates. The average number confined in the jail at all times during the three years previous had been exactly 100. Upon the establishment of a county probation officer in March the jail population immediately began to decrease. On January 1, 1916, the number had decreased to 68, almost exactly one-half of what it had been one year before. The decrease appears to be largely due to the establishment of a probation system in the county.

ONONDAGA COUNTY

The work of both county probation officers has developed during the past year. The officer employed for work in the courts of towns and villages has received 34 cases from justices of the peace in 6 towns. He has made use of volunteer helpers in various villages, thus keeping in closer touch with his cases residing at a distance from Syracuse.

ONTARIO COUNTY

A recent investigation of the work of the County Court, Children's part, showed that since the establishment of the court on September 1, 1913, to December 1, 1915, a period of two years and three months, 85 children's cases have been placed on probation. Of these, 67 were residents of the two cities of Canandaigua and Geneva and the remainder, 18, were from the towns and villages. The court has sat in each of the two cities, though infrequently at Geneva. There is the same need that appears to exist in Monroe county, though to a somewhat lesser extent, that the work of the Children's Court be co-ordinated with the work of local courts, police, school officials and others, especially in the towns and villages.

ORANGE COUNTY

Following a campaign and hearing before the board of supervisors, the position of county probation officer was established. The office had been strongly recommended by the county judge and Supreme Court Justice Tompkins. The examination in which the Commission assisted led to the appointment of the man

who stood at the head of the eligible list. The work of this office has developed gradually. Probation has been used in all the larger courts. The Commission has sent letters and literature to all of the justices of the county and the county probation officer has visited many of them. He has published a very instructive "First Annual Report." His work is receiving public support and approval.

ORLEANS COUNTY

A campaign was carried on late in the fall to secure the appointment of a county probation officer. The needs were investigated and the Secretary appeared at a hearing before the board of supervisors. No appropriation was made though there is great need of this officer. Two volunteer officers have been appointed in the city of Medina.

ST. LAWRENCE COUNTY

Following provision by the board of supervisors for a salaried officer and an examination in which the Commission assisted, the man who stood at the head of the eligible list was appointed and began work. He has established an office in the city of Ogdensburg, and in eight months' time has received 63 persons on probation. He estimates that the use of probation has already saved the county \$2,057.72. He has received cases chiefly from the higher courts and Recorder's Court of Ogdensburg. He has received general public support.

SCHOHARIE COUNTY

Volunteer probation officers have been appointed by the county judge for the first time and the work has developed gradually. A salaried county probation officer should eventually result.

SENECA COUNTY

An effort was made by the Commission to secure the appointment of a county probation officer. The county is entirely without probation work except a little volunteer service in the County Court and Police Court of Seneca Falls. After an investigation,

a hearing was held before the board of supervisors, but no provision was made. It is expected that an officer will be provided for next year.

STEUBEN COUNTY

As a result of the strong recommendation of the county judge and Supreme Court justices, two county probation officers who have headquarters in the cities of Corning and Hornell at either end of the county were provided by the board of supervisors. A civil service examination in which the Commission assisted produced an admirable eligible list. Appointments were made from the head of the list. The Commission has endeavored to assist the new probation officers in extending their work by sending letters and literature to all of the justices of the county and in other ways. The two officers, although paid very small salaries and necessarily having other occupation, have given a great deal of time to the work and have developed it remarkably. After ten months' service they have published an admirable "Annual Report."

The Hornell Officer at the close of the year had 55 cases in his care, largely from the higher courts and from the city of Hornell. The Corning officer had 30 cases, 14 of which were from town and village courts. Active volunteers have been secured to care for cases residing in four of the villages of the county.

The work of these officers have met with public approval so much so that after less than one year of service, their salaries have been increased. The Secretary of the Commission investigated their work and appeared before the board of supervisors asking for the salary increase.

WESTCHESTER COUNTY

A strong effort was made by the Commission to establish the position of county probation officer in Westchester county, it being the largest county in the State depending entirely upon volunteer officers for work in the higher courts. The Secretary made six visits to the county. After investigating the need, he consulted with the judges and other county officials and addressed the board of supervisors. The board made provision for the new officer, granting a salary of \$1,500 at the start. The Commission assisted

in the examination which resulted in the appointment of the man who stood first on the list. His work has been developing gradually and successfully. This office promises to be one of the most important and useful probation offices in the State.

HOME VISITS BY PROBATION OFFICERS

One of the most important features of probation work is the visiting of the homes of probationers by probation officers. The Commission has always recommended the making of frequent home visits. There are, of course, exceptional cases where such visits are not needed and where they might even be harmful. In the great majority of cases, however, they are necessary, in addition to the weekly report to the probation office, not only for finding out the facts as to the conduct and circumstances of the probationer, but also in order to help him. In many cases, especially of children, it is important that the officer secure the continuous co-operation of the other members of the household. Probation officers frequently state that they must treat the whole family as if on probation.

Believing that a pretty accurate test of the amount of work done in probation cases could be obtained by securing from the officers a report upon home visits made in probation cases, a report has been secured during the past year from every officer monthly as to his home visits made in probation cases (exclusive of visits made in preliminary investigations before cases being placed on probation). We have found the greatest variation in the number of home visits. They range from no visits whatever to an average of 28 on each case during the year, or over two per month.

In few courts is the number of visits adequate; in many it is altogether insufficient for thorough work. In some courts the chief cause for the lack of visits is too many probation cases or the fact that the officers are required to spend much time on investigations or court duty. In others there should be more effort on the part of the officers to do effective work with their cases.

The following table shows the average number of cases throughout the year, the home visits, and the average number of visits per case for the year in the principal courts from which reports were received:

HOME VISITS BY PROBATION OFFICERS IN PROBATION CASES ING THE YEAR ENDING SEPTEMBER 30, 1915

COURTS	Average number of probation cases under supervision	Total number of home visits	Average number of visits per case during the year
<i>City Officers</i>			
Binghamton (Woman probation officer).....	20	461	23.0
Buffalo (Children's Court).....	166	2,142	12.9
Buffalo (City Court).....	1,543	3,537	2.3
Jamestown.....	39	368	9.4
Lackawanna.....	112	1,784	15.9
Mt. Vernon.....	149	165	1.1
New York, 1st Division, Magistrates' Courts.....	1,165	14,813	12.7
New York, 2nd Division, Magistrates' Courts.....	2,071	9,359	4.5
New York, Court of Special Sessions, Manhattan.....	262	1,400	5.3
New York, Court of Special Sessions, Brooklyn.....	214	1,269	5.9
New York, Court of Special Sessions, Queens.....	22	244	11.0
New York, Court of Special Sessions, Richmond.....	16	382	24.0
New York, Court of Special Sessions, Bronx.....	42	214	5.0
New York, Children's Court, Manhattan.....	934	16,777	18.0
New York, Children's Court, Brooklyn.....	426	8,809	20.6
New York, Children's Court, Queens.....	145	3,039	20.9
New York, Children's Court, Richmond.....	161	2,285	14.2
New York, Children's Court, Bronx.....	189	3,110	16.4
Poughkeepsie.....	34	225	6.6
Rochester (Woman probation officer).....	53	235	4.4
Saratoga Springs.....	44	58	1.3
Syracuse.....	287	4,985	17.3
Utica.....	110	853	8.5
Yonkers (Juvenile probation officer).....	40	229	5.7
Yonkers (Adult probation officer).....	32	210	6.5
<i>County Officers</i>			
Cayuga.....	83	217	2.6
Clinton.....	40	1,145	28.6
Dutchess.....	53	100	2.0
Erie.....	313	2,521	8.0
Monroe (Children's Court).....	35	798	22.8
Montgomery.....	50	1,328	26.5
New York (Court of General Sessions).....	931	2,203	2.3
Onondaga (County and Supreme Courts).....	37	265	7.1
Oswego.....	48	383	8.0
Total.....	9,866	85,913	8.7

RURAL PROBATION WORK

The work of the probation officers in the rural parts of the State has been extending gradually. Last year 36 counties as against 35 in 1914, used probation in the courts of one or more towns and villages. Five hundred and ten persons were placed on probation by the justices in 75 towns last year. Nearly all of this work is carried on by the salaried county probation officers who visit the towns, make investigations and supervise probation cases either directly or with the help of volunteers. The counties where this work was carried on most extensively last year were Clinton, Cortland, Dutchess, Oneida, Onondaga, Orange and Steuben. In

the last two counties the work was started during the past year, and has developed rapidly and successfully. In Steuben county the county probation officer has secured the services of four active volunteers serving in as many villages. These volunteers appoint regular days for receiving reports from the probationers residing in their villages; they collect money and report at frequent intervals to the county probation officer, who keeps in close touch with their work at all times.

There is a large field for the development of this work in every rural county of the State. With the employment of increasingly more salaried county probation officers and the payment of better salaries, this work is bound to be extended and to improve in quality throughout the State.

PROBATION FOR DRUNKARDS AND DRUG ADDICTS

The table on page 27 of this report, giving the charges against adults placed on probation during the past year shows 1,472 persons were last year placed on probation for public intoxication. This was 11.3 per cent. of all probation cases. During the preceding year 1,974 persons were placed on probation for public intoxication, or 15.4 per cent. of all cases. A decrease is therefore indicated in the use of probation for inebriates, although this still remains one of the leading charges.

It is now generally agreed that probation is nearly always ineffective as a treatment for habitual drunkards. It may be hopefully applied to certain of the younger cases where habits of intemperance are not confirmed. For those repeatedly arrested, or who have been addicted for years to the use of alcohol until they are diseased, body and mind, the supervision of a probation officer can not be close enough, nor can his influence, no matter how helpful, be exerted constantly enough to cure the diseased condition. Hospital or institutional treatment is required in these cases. The public is gradually beginning to realize that special institutions must be provided. They are as necessary in any locality whether it be urban or rural, as are hospitals for the tuberculous or the insane.

New York city has led the way by the establishment of its Inebriety Farm at Warwick. This institution has been successful in effecting cures and is receiving both alcoholics and drug users

from New York city. On this farm the men are kept under healthful conditions and are constantly employed in the open air, far removed from temptation. They are reconstructed in body while at the same time their wills are strengthened and temperate habits established.

The city of Rochester is about to establish a farm colony for inebriates. It would be well if all the larger cities in the State could have such institutions, where judges could send both those addicted to drink and to drugs. The courts would thus be rid of an intolerable burden.

Much that has been said above applies to the increasing evil of drug addiction. This evil has been growing enormously and the probation system has felt the strain. While not many drug users are placed on probation for that offense alone, the probation officers are constantly discovering the habit in cases which they are called upon to investigate, or which are placed on probation for other offenses. The treatment of drug users on probation is perhaps less hopeful than that of the confirmed drunkard. Hospital or institutional treatment is necessary. This is being realized by the judges in most of our cities, who are now sending many of these victims for short periods to hospitals where they receive special treatment. In general the treatment in these hospitals is for too brief a period. The farm for inebriates where these victims may be given healthful training for body and mind for a sufficiently long period is now generally agreed by all who are familiar with the problem to be the best solution. The probation system should no longer be loaded down with cases for which institutional treatment is alone effective.

UNOFFICIAL AND PREVENTIVE WORK OF PROBATION OFFICERS

Many probation officers do more or less work with cases which are brought to their attention directly or indirectly but which have not passed through court proceedings. The first duty of a probation officer is to care for the cases assigned by the court. This usually requires all of his time. In some localities, however, especially in rural districts and in smaller cities, the probation officer has time to make investigations at the request of parents or relatives and friends of children and sometimes adults inclined to go wrong.

In these cases it is sometimes well to place the delinquent on unofficial probation. This work, which is usually undertaken by other agencies, is neglected in the smaller cities and in the villages. It is, however, of great importance as it is often the means of preventing a court record and further delinquency.

One woman probation officer, in reporting upon her unofficial cases, says: "It seems impossible for anyone with a conscience, anyone with a bit of sympathy for frail humanity, or anyone with the conviction that 'an ounce of prevention is worth a pound of cure' to turn a deaf ear to the pleadings of a heart-broken, respectable parent to 'save my boy before it is too late.'" This same officer reports gratifying results in some of these cases. The following are examples: Young girls have been escorted to their homes late at night by the probation officer; homes have been visited in the evening at the request of parents and young girls have been warned that complaints would be made to the court if they did not obey their parents and stay away from harmful company and keep better hours; cases where husbands and wives were about to separate were settled satisfactorily through the intervention of the probation officer; neighborhood quarrels have been adjusted and the disgrace of publicity in the court avoided.

The Commission believes it is necessary to warn the probation officers against attempting so much unofficial work as to interfere in any way with the officer's regular duties with court cases. The probation officer should not assume the functions of the police nor of the court. He should report all action taken by him to the judge under whom he serves. With these precautions, this work is to be commended as frequently of great value to the community.

PAROLE AND ITS RELATION TO PROBATION

With the growing interest in prison reform, there is evidence of increasing interest in the parole work of the State. Nothing, however, has been done to increase the number of parole officers and extend this work except in the city of New York.

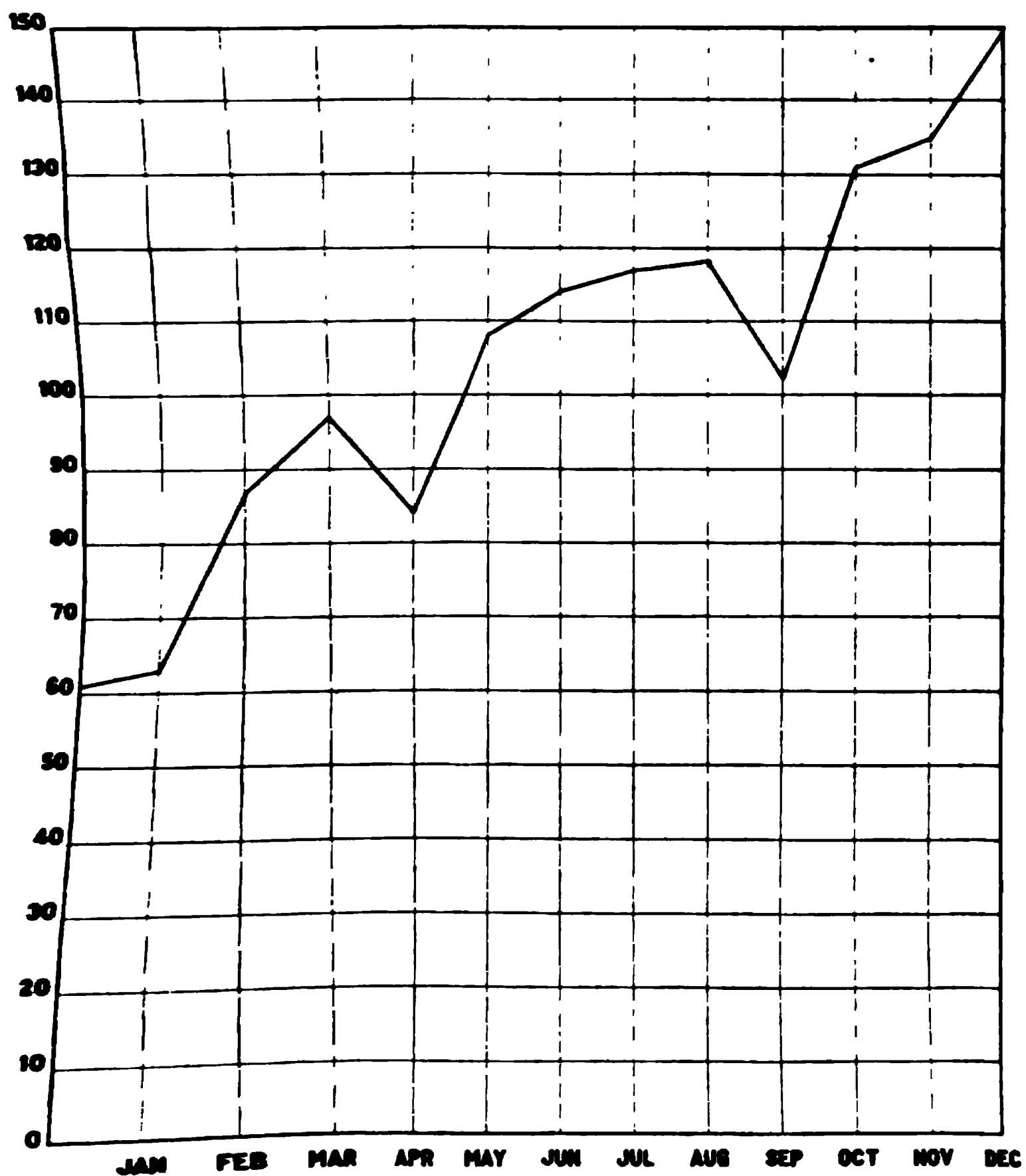
By the Act of 1915, a Parole Commission was created for New York city consisting of three salaried members, the Commissioner of Correction and the Police Commissioner as ex-officio members. The Commission has wide powers to decide the period of parole

for practically all persons committed to the penitentiary and the New York City Reformatory and for a large number of those committed to the workhouse. The Commission also has authority to appoint parole officers so far as their compensation is allowed by the Board of Estimate and Apportionment and supervises their work. At the beginning of 1916, the Commission had appointed a secretary and seven parole officers and in addition was using the services of volunteers. There will be a great extension in this work shortly under the provision of the act prescribing indeterminate sentences for the majority of the offenders in these institutions. The Parol Commission is seeking the co-operation of the probation officers of the city and has arranged for the interchange of reports and records. The two sets of officers will deal with the same cases in very many instances, most frequently, of course, the parole officers getting the offenders after they have had a chance on probation. The work to be done by the two sets of officers is almost identical in the matter of investigations and constructive work with persons in their care. The objects of probation and parole are practically the same, and the closest co-operation should exist between the two sets of officers.

The situation in regard to parole work in the State at large remains practically the same. The following table shows the number of persons paroled from all State institutions during the year ending September 30, 1915:

STATE PRISONS	
Auburn	161
Auburn (Women's Prison)	33
Clinton	161
Great Meadow	450
Sing Sing	203
	————— 1,008
REFORMATORIES	
Elmira	966
Napanoch	399
Bedford	199
Albion	122
	————— 1,686

CHART VII
VARIATIONS IN THE NUMBER OF PERSONS ON PAROLE
FROM INSTITUTIONS IN THE CARE OF PROBATION
OFFICERS AT THE END OF EACH MONTH
DURING 1915



TRAINING SCHOOLS FOR CHILDREN

Industry	533	
Randalls Island	503	
Hudson	102	
		———— 1,144
Grand total	3,838	=====

For the care of these paroled persons, children and adults, and the many others remaining on parole from preceding years, only 25 regular parole officers are now employed in the State. These officers moreover act only for their own institutions and so in many instances cover the same areas. Of course, it is necessary for them to depend largely upon the reports of others in regard to the conduct of their charges. In this work they utilize various citizens, including representatives of charitable organizations, chiefs of police, and probation officers. We find that probation officers are everywhere ready to co-operate with the parole officers in supplying information and in some instances taking entire charge of cases. This work has been especially developed in the city of Buffalo where the county probation office has cared for 21 persons discharged from the State prisons during the past year. In the State at large the number of paroled persons in charge of all probation officers as reported monthly to the Commission has been increased till at the end of the year the number of cases was 149. The following chart shows the increase in this work.

The Commission recommends as in the past that probation officers should undertake this work so far as their time and other duties allow. The system of having parole officers travel over large areas, attempting to supervise their cases in many localities, cannot work satisfactorily without a very much larger number of such officers than there is any chance of the State providing in the near future. We believe that the probation officers might with advantage co-operate with the agents of institutions in this work to a still greater degree. If necessary there might be provided additional probation officers to act as parole officers for all persons paroled in certain localities.

The Commission also recommends as in the past that there be the same central State supervision of the work of parole officers as is established for the work of probation officers. We supported a bill introduced last year by the Commission of Prisons to delegate this supervision for the purpose of developing and improving parole work to the State Probation Commission. We believe that in this way needed co-ordination between the work of the parole officers and the probation officers can be best brought about and the parole work extended and improved.

CHILDREN'S COURTS

New York State affords a laboratory for the study of various plans for establishing and conducting children's courts. All kinds of courts from the entirely separate Children's Court of Buffalo presided over by a judge who gives his entire time to it, to the criminal police court in some of the smaller cities and villages where children are not even given a separate trial but are treated to all intents the same as adults, are to be found in this State. Two counties — Monroe and Ontario — have established county children's courts as parts of the county court.

A special study of the workings of the Monroe County Children's Court has been made during the past year. Our general conclusions are that the plan has great advantages in securing effective dealing with the children brought before it, far more effective than they could obtain in the courts of the justices of the peace and the village justices or the city magistrates. The court has wider powers. It also has proper facilities, including a detention home and especially trained probation officers. On the other hand, some objection has been found to the court in that it is too far removed from the homes of the children, causing some hardship to parents, and others concerned, in bringing the children to the county seat at Rochester, and also, what is more serious, in causing some cases to be neglected on account of the difficulty of bringing them to Rochester. This objection is especially valid in the case of what appears to be the less serious offenses, such as truancy and incorrigibility. The Commission believes that these objections can be effectively removed by having the court go to the people, so to speak. In other words, that the children's court

might be held in a number of different parts of the county. In a county as large as Monroe, it would seem that the children's court judge might of advantage give his entire time to the work. Possibly in these ways, better co-operation could be established with the local justices of the peace, constables and attendance officers so that there should be no neglect or delay in bringing the children to court. The probation officers of the children's court should work in all parts of the county and should seek to co-operate with the local authorities in every way possible.

In the other county in which a children's part of the county court has been established with exclusive jurisdiction over children's cases, there appears to have been less difficulty in reaching the cases needing attention in various parts of the county. The court has been held in cities located in the two ends of the county. To some extent, however, the same objections have been raised in Ontario county, which the Commission believes could be avoided by the more frequent meeting of the court in the city of Geneva and also at times in other parts of the county.

It seems highly desirable that children's courts should handle cases of adult contributory delinquency. It would be well if every case involving a child could be handled in a children's court. If, as suggested for Monroe county, a separate county children's court judge could be provided in all counties in which the work justifies the full time services of such a judge, contributory delinquency cases could then be transferred from the local courts to the county children's court.

The Commission introduced and supported an amendment which became a part of the Judiciary Article of the proposed new Constitution, rejected by the voters last fall, which would have provided that all children's courts should have full equity jurisdiction. This amendment would have tended to standardize and broaden the power of the children's courts, removing as far as possible the vestiges of criminal procedure which now obtain in all of our courts. It is hoped that this amendment may subsequently be enacted separately.

There is urgent need for the amendment and codification of the laws of the State relating to the handling of juveniles so as to establish a uniform procedure as far removed as possible from the criminal for the handling of children in all parts of the State.

DOMESTIC RELATIONS COURTS

Special courts or parts of courts for the handling of domestic relations cases are maintained only in the boroughs of Manhattan, Brooklyn and the Bronx, and in Buffalo. It is desirable that in all large cities these cases be tried in special courts, or at least in separate sessions. In the larger cities a judge should give all his time to these cases and become expert in handling them. What is perhaps still more important, special probation officers should be employed to investigate and when possible adjust these cases out of court. This is now done in many instances in the domestic relations courts of New York city.

It is now generally agreed that the proceedings in cases of desertion, non-support and other domestic relations cases should be modified from the strictly criminal and made in some respects similar to the handling of juvenile cases. Where it is possible to effect the ends of social and family welfare without formal trial and conviction this should be done. Under the special provisions of the Inferior Criminal Courts Acts, cases are now adjusted in this manner in New York city. They are placed on probation and required to provide for the support of families without formal conviction. To modify the procedure and to enlarge the powers of domestic relations courts the Commission has urged an amendment to the Constitution granting to such courts full equity jurisdiction.

The question has come up during the past year as to whether men or women should be employed as probation officers in domestic relations cases, particularly those of non-support. The Commission is convinced after studying the work of both men and women officers that in general the male officer is more successful in dealing with the non-supporting husband on probation. The woman officer is often very effective in advising and helping the wife or the mother who not infrequently is also to blame for the desertion of the husband and for the domestic ructions. In the Domestic Relations Courts in New York city, women probation officers who formerly handled most of the cases have been largely replaced by men to the betterment of the system. Women officers have, however, been retained to meet and advise with the many women who come into the court as complainants and also, of course, to handle all cases of women who are placed on probation.

In the City Court of Buffalo and also in the Erie county probation office women probation officers have been employed for the first time during the past year. In both offices they effectively assist the male probation officers in the domestic relations cases by visiting in the homes and advising and helping the wives and children. Many of these domestic relations cases are so difficult of solution that the help of both a man and woman probation officer is advantageous. Women, perhaps, better than men, are able to get to the bottom of the domestic difficulty and assist in bringing about a reconciliation, in suitable cases.

THE DANGERS OF PROBATION WRONGLY USED

In the searching analysis and constructive criticism of probation presented by Governor Charles S. Whitman at the annual State Conference of Probation Officers at Albany last November, the Governor, while endorsing the principle and rejoicing in its growth and success, pointed out certain dangers which all concerned in the extension and use of the probation system would do well to heed. Urging the need for firmness and decision in handling all offenders against the law, he said:

“The whole object of the treatment of an offender, whether by probation or institution, is to build up in him orderly, law-abiding habits. How can we expect him to hold himself well in hand, to live up to his promises, to be consistent, if the State itself in dealing with him fails to show these qualities? If the State, as represented in its courts, shows flabbiness, uncertainty, indecision, in common parlance, ‘bluffing’ in its dealings with probationers, how can we expect them to be free from these qualities in their dealings with us?”

The Governor condemned emphatically, as we all should, any possible misuse of probation through favoritism. He said,

“Nothing tends to bring the probation system into disrepute so quickly as any inclination on the part of the court to use it as a cloak to speak plainly, for favoritism.”

The misuse of probation on the part of courts and judges whose motives are above suspicion, but whose judgment or knowledge

of the cases is not above criticism, was pointed out as quite as serious an evil as the deliberate misuse of the system, probably because a far commoner evil.

Much depends upon the efficient work of the probation officer, but quite as much upon the right selection of cases by the judge. In this connection the Governor said:

“ It is impossible for the probation system to be thoroughly efficient and to fully protect the interests of the community unless the courts do their part with careful discrimination and with consistency and decision. There are certain classes of persons who obviously are not suitable for probation. It is a travesty to place hardened and convicted offenders upon probation, when there is no indication of any probability of change in their behavior.”

One of the most serious dangers to probation is non-enforcement of its terms and conditions and in the failure to return probationers to court who do not live up to those conditions. In regard to this vital matter the Governor said:

“ It is not desirable indeed that every technical violation of the terms of an offender's release should be dealt with summarily and result in his commitment to a reformatory or penal institution. The circumstances of the violation, the fact as to whether it is exceptional or habitual, the spirit of the probationer, his attitude toward the community, all should be taken into consideration; but when it is evident that he has failed to take probation seriously, when there is nothing in his conduct to really justify the belief that he is refraining from ways of life which will result in further offenses then it is essential if the probation system is to continue to possess the confidence of the community that the probation officer should report these facts to the court and that the court should act upon them with firmness and decision.”

With the rapid growth of probation evils are likely to spring up, against which we must be on our guard. No greater service can be done the system than the pointing out of its defects and the

dangers to which it is subject, with sympathy and appreciation, as was done by Governor Whitman.

LEGISLATION

No legislation changing the probation laws of the State was enacted by the Legislature of 1915. The following laws were enacted and are mentioned as more or less affecting the work of the probation officers and judges of the State.

Chapter 531, amending the Inferior Criminal Courts Act of New York City, providing for the separation of the Children's Court from the Court of Special Sessions with five justices instead of four to be appointed by the mayor from among the justices of the Court of Special Sessions; combining the first and second divisions of the Magistrates Courts under one chief magistrate and one board; retaining all probation officers and judges serving and providing for several new positions as follows: A chief probation officer and deputy chief probation officers for the Magistrates' Courts; a chief probation officer and deputy chief probation officers for the Children's Court. These provisions have meant the reorganization and centralization of the probation work in these courts. The bill also gives the magistrates the jurisdiction of the justices of the Court of Special Sessions to try certain misdemeanors and provides for a municipal term for the exclusive trial of cases involving violations of the rules or regulations of any city department.

Chapter 286, amending the Tenement House Law of New York City so as to allow females convicted of prostitution in tenement houses to be placed on probation upon their first offense, when not convicted of keeping or maintaining a disorderly house.

Chapter 480, providing that a child brought before a court, under section 486 of the Penal Law, if appearing to the magistrate to be feeble-minded, may be caused to be examined by two physicians and on the written statement that the child is feeble-minded, the magistrate may commit such child to an institution for the feeble-minded, to be there detained until discharged by the board of managers.

Chapter 211, requiring all judges in Westchester county (except the judges of city courts), to report the names and principal circumstances in the cases of all delinquent children, about to be

committed to any institutions, to the superintendent of the poor of the county; requiring the superintendent of the poor to investigate each case so reported and to report thereon with suggestions to the judge.

Chapter 228, establishing local boards of child welfare empowered to grant allowances to widows.

Chapter 579, establishing a parole commission in New York City to parole prisoners from all institutions under the jurisdiction of the department of correction. (An account of the law is given under the heading, "Parole and Probation.")

The Commission supported the bill introduced on behalf of the State Commission of Prisons by Senator Halliday and Assemblyman Law, providing that the State Probation Commission be given supervision over the work of the parole officers of State institutions. The provisions of the bill did not in any way interfere with the appointment and control of the parole officers by the board of parole and the respective State institutions. It simply made it the duty of this Commission to study and collect data regarding the parole work of the State and its needs and to seek to improve and extend it, especially with a view toward securing greater co-ordination of the parole with probation work. It would give the Commission the same relation to the parole officers as we now have toward probation officers.

The bill met with some opposition and failed of passage without reaching a vote in either branch of the Legislature.

The Commission has been willing to undertake this additional work and responsibility, believing it would be of benefit to the parole work of the State which is far from being as effective or as well co-ordinated as it should be.

The Commission opposed several bills which we believed would be injurious to the probation work of the State and they each failed of passage.

THE CONSTITUTIONAL CONVENTION

The Commission, through a special committee, prepared and actively supported two proposed amendments to the Constitution, both of which were introduced and effectively advocated by Com-

missioner A. T. Clearwater, delegate-at-large to the Convention. These amendments provided:

1. For making the State Probation Commission a constitutional body.
2. For the establishment of children's courts and courts of domestic relations by the Legislature and for conferring upon them equity jurisdiction.

The latter amendment was drafted by members of this Commission with the assistance of Judge Julian W. Mack and the Hon. Bernard Flexner, both of Chicago. The amendment was incorporated in the judiciary article and adopted without change by the Constitutional Convention. It read as follows:

"The legislature may establish children's courts, and courts of domestic relations, as separate courts, or parts of existing courts or courts hereafter to be created, and may confer upon them such equity and other jurisdiction as may be necessary for the correction, protection, guardianship and disposition of delinquent, neglected or dependent minors, and for the punishment and correction of adults responsible for or contributing to such delinquency, neglect or dependency, and of all persons legally chargeable with the support of a wife or children who abandon or neglect to support either. In the exercise of such jurisdiction such courts may hear and determine such causes, with or without a jury, except those involving a felony."

The purpose of the amendment is to standardize and enlarge the powers of children's courts and domestic relations courts, allowing the use of full equity or chancery jurisdiction in appropriate cases. This power would make it possible to deal with these cases in such a manner as to secure justice and humanity without the necessity of a criminal conviction. This jurisdiction is granted to the children's courts in other states but in this State is granted by the Constitution only to the Supreme Court. This needed Constitutional change would, we believe, pave the way for the enactment of comprehensive legislation dealing with juvenile delinquency and domestic relations cases throughout the State.

The Commission conducted a very active campaign in behalf of the amendment. A hearing was held before the Committee on the Judiciary and also before the Committee on Prisons and Reformatories and the Prevention of Crime. At these hearings, we fortunately were able to secure the presence of the Hon. Julian W. Mack, Judge of the United States Circuit Court of Appeals and formerly judge of the Juvenile Court of Chicago. Commissioners Folks and Wade also addressed the committees. Judge Mack's address was a brilliant and learned analysis of the fundamental needs and purposes of the Children's Court and the Court of Domestic Relations. His appearance had a great deal to do with securing the support and favorable action of the committees leading to the final adoption of the amendment in the revised Constitution. A report of his address is given in Appendix H of this report.

Unfortunately, with the rejection of the revised Constitution by the voters at the November election, the amendment failed. The Commission will endeavor to secure the enactment of this amendment at the earliest practicable date.

The Commission favored an amendment introduced on behalf of the State Association of Magistrates, providing for the waiving of indictments in certain cases of felony in which a plea of guilty is entered and allowing for an immediate trial in the higher court.

APPROPRIATIONS TO THE COMMISSION

The Legislature of 1915 granted the Commission a total of \$12,800 in the appropriation bill and \$1,713.23 for deficiencies in the supply bill. The Commission has received no increase in the number of its staff since 1909. For the coming year, the Commission has requested that an appropriation be made for the salary of a statistician in addition to the present staff. All the work of the Commission, especially the statistical and clerical work has been increasing greatly, due to the growing probation work of the State, and this additional employee is greatly needed. A total appropriation of \$15,100 has been requested from the Legislature of 1916. No deficiency item is required. The items requested appear in an appendix to this report.

RECOMMENDATIONS

That the growing probation work in the courts of the State may be developed wisely and successfully, the Commission desires to bring to the earnest attention of all officials and other persons in the State who are concerned in this work, the following recommendations:

TO JUDGES AND OTHER PUBLIC OFFICIALS

1. Every city should employ one or more salaried probation officers appointed from civil service lists. Every city of from 10,000 to 20,000 population or over, depending on the character of its population and other local conditions, should have one or more salaried officers giving their time exclusively to the probation work of the city court. Smaller cities and villages should secure the part time service of salaried officers, either county or local; if this is impossible the courts should appoint volunteers.

2. Every county should provide for one or more salaried county probation officers appointed under the civil service, doing the important probation work of the higher courts, the work arising in the justices' courts of towns and villages, and also serving in the smaller cities which have not provided themselves with salaried probation officers. In the larger counties a separate officer exclusively for handling the probation work in the justices' courts of the towns and villages is recommended.

3. In the larger cities and counties and wherever the amount of work is sufficient to justify the expense, both male and female probation officers should be employed. For the handling of women and girls, a woman probation officer is indispensable. If the members are few, volunteer service may suffice. For the care of men and older boys a male officer is necessary.

4. In the larger cities there should be a chief probation officer and where the work warrants, deputy chief probation officers, in order that the work may be efficiently organized and co-ordinated.

5. Salaries of probation officers should be made high enough to attract and hold well qualified men and women in the service. A minimum of \$1,200 for full time probation officers is recommended. A system of annual salary increases should be provided up to a certain maximum, to be paid to all efficient officers as just compensation for increased efficiency.

6. Probation officers should be provided with proper office quarters, supplies for their work, and traveling expenses. The efficiency of an officer depends upon his ability to cover his territory and it is therefore poor economy to limit him as to his necessary expenditures.

7. Adequate clerical help should be supplied to probation officers. It is poor economy to keep the probation officer in his office preparing records and doing other clerical work when his more important work is in the field.

8. Probation officers should be allowed necessary traveling expenses in attending the annual State conference of probation officers. The benefit derived from attending this Conference justifies this expenditure as it is an investment which adds to the knowledge and efficiency of the officer.

9. Judges are urged not to place persons on probation in whose cases it is almost certain that a probation officer can accomplish little or nothing of positive value. In order to determine fitness for probation or other treatment, a preliminary investigation by the probation officer is essential in practically all cases.

TO PROBATION OFFICERS

1. More frequent visits to the homes of probationers should be made than has been the practice in the past. Probation officers should not depend upon office reports alone, but should see the probationer and his family in their homes frequently, generally not less than once a month.

2. Thorough investigation should be made in all cases, if possible, before receiving upon probation; when this is impossible, immediately after.

3. Chief probation officers should endeavor to distribute the cases to the officers who are best fitted to care for them. Where they have both men and women probation officers, the cases of women and girls should invariably be assigned to women officers; the cases of men and older boys should invariably go to male probation officers.

4. Probation officers should welcome the assistance of volunteer probation officers and other workers, but should not leave the care of their cases to such workers alone. Probation officers

should remain in official charge of all cases assigned to them and insist on frequent and accurate reports of all services performed by volunteer assistants. Probation officers should work out a plan of co-operation with all the charitable, civic, religious, and other organizations in their communities so as to obtain a maximum amount of co-operation in their cases.

5. Probation officers should seek legitimate and enlightening publicity for their work through the newspapers, always insisting that the names of probationers and others involved in their cases be not published. They should seek opportunities to talk about their work in various kinds of public gatherings.

6. All probation officers should prepare annual reports to be submitted to the judges of the courts in which they serve and to the public officials of the city or county employing them.

The work of the probation officer is of the greatest value to the community, both morally and materially. His work is both preventive and reformatory. He should receive the support and encouragement not only of judges and public officials, but also of all the people. The success of the officers and of the probation system depends in large measure upon the interest and co-operation of the people in each locality. The support and appreciation afforded to the probation workers of the State is constantly increasing.

The State Probation Commission desires to express its appreciation of the courtesies and aid extended to it by the judges and other officials, departments, organizations, to the press, and to the many persons who have been of great assistance in its work during the past year.

Respectfully submitted,

HOMER FOLKS, *President,*

CHARLES L. CHUTE, *Secretary.*

April 3, 1916.

APPENDIX A

STATISTICS OF PROBATION FOR YEAR ENDING SEPTEMBER 30, 1915

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STATE PROBATION COMMISSION

TABLE 1a — BOYS PLACED ON PROBATION

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Month un-stated	Total
CITIES														
Albany Police	6	3	5	2	4	3	4	3	4	...	2	5	...	41
Amsterdam Recorder's	3	2	3	2	...	6	3	5	...	...	2	2	...	34
Auburn Recorder's	...	1	...	5	...	...	1	3	2	...	...	...	...	12
Batavia Police	...	...	4	1	2	1	3	8	2	3	6	...	...	30
Binghamton City	20	20	10	10	18	13	10	24	10	22	1	3	...	10
...	...	...	3	2	2	2	...	...	...	...	20	9	...	136
...	3	...	...	...	...	...	...	...	...	...	...	...	5	9
...	...	...	...	...	...	...	...	...	...	...	...	...	...	8
...	1	3	...	...	4	...	...	3	...	2	2	...	...	2
...	...	...	...	...	...	1	1	...	...	2	...	4	...	15
...	...	...	...	...	...	...	3	2	...	...	...	9	...	8
...	5	6	3	...	2	4	...	3	...	...	...	...	...	11
...	...	...	2	...	...	16	...	3	...	...	...	...	...	21
...	...	2	1	...	...	1	...	4	...	...	...	...	...	9
...	...	4	...	3	8	5	6	7	2	31	4	...	...	66
...	1	7	7	3	1	2	...	14	2	...	...	3	...	45
...	4	2	4	6	8	8	5	1	1	...	3	...	...	45
...	3	...	...	13	2	...	3	...	...	...	7	...	...	27
...	4	...	...	1	1	...	1	...	...	...	5	2	...	17
New York county	153	121	130	138	116	166	114	145	106	154	124	124	...	1,001
Kings county	154	85	84	94	82	96	96	121	106	124	82	63	...	1,187
Queens county	24	22	16	13	20	22	17	16	28	20	16	18	...	232
Richmond county	6	19	20	5	20	34	9	23	3	7	15	14	...	164
Brooklyn county	35	34	44	25	50	25	50	52	26	28	38	18	...	425
...	...	1	...	...	...	...	...	...	...	1	...	...	...	2
...	...	...	...	...	...	1	...	...	...	...	...	1	...	2
...	...	...	...	...	1	...	...	...	...	1	...	...	...	2
...	...	...	...	...	...	...	...	...	...	...	...	2	...	2
...	1	2	1	6	7	4	7	14	...	...	1	...	...	4
Rome City	6	...	...	...	1	...	3	6	...	...	...	...	...	15
Saratoga Springs City	1	2	...	...	...	...	...	1	...	...	...	...	...	5
Schenectady Police	5	2	1	9	4	4	4	4	8	4	11	11	...	67
Syracuse Special Sessions	9	17	6	5	10	10	6	7	8	3	4	7	...	92
Troy City	14	5	4	4	4	6	9	7	3	6	3	3	...	88
Utica City	11	9	21	3	5	8	9	14	8	3	2	10	...	103

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TABLE 1a — BOYS PLACED ON PROBATION, — (Concluded)

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug	Sept.	Month un-stated	Total
Saratoga county,	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	2
Sullivan county, &	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
Westchester coun	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5
Total for towns and villages.....	7	7	13	11	6	2	9	7	10	11	12	14	11	120
SUPREME AND COUNTY COURTS														
Part.....	8	13	15	15	12	5	19	27	16	28	2	8	.....	5
Part.....	2	1	1	5	2	2	1	2	1	1	13	1	.....	166
.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	19
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
Total for Supreme and county courts	10	14	16	21	15	7	21	18	17	29	15	9	.....	192
Grand total	500	402	412	392	402	445	410	542	383	477	395	319	16	5,108

TABLE 1b—GIRLS PLACED ON PROBATION — (Concluded)

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Month un-stated	Total
VILLAGES														
Falconer.....	...	...	...	...	...	...	...	...	1	...	...	...	...	1
Manlius.....	...	...	...	...	...	...	1	...	...	...	...	...	...	1
Mineola.....	...	...	...	...	...	...	...	...	...	...	...	...	1	1
Pleasantville.....	...	...	...	...	...	...	...	2	...	...	...	...	1	1
Potsdam.....	...	...	...	...	...	...	...	...	...	...	...	...	...	2
TOWNS														
Chenango county, town of New Berlin.....	3	...	...	...	1	...	...	2	...	...	...	...	...	3
Nassau county, town of Hempstead.....	...	...	...	...	...	...	...	...	...	...	...	...	...	3
Nassau county, town of North Hempstead.....	1	...	...	...	...	...	...	1	...	...	...	...	...	1
Saratoga county, town of Corinth.....	...	...	...	...	...	...	...	...	...	...	...	...	...	1
Total for towns and villages.....	4	...	...	...	1	...	1	5	1	...	...	2	2	16
SUPREME AND COUNTY COURTS														
Monroe County, Children's Part.....	2	2	10	15	2	2	5	3	...	2	...	...	...	43
Ontario County, Children's Part.....	...	...	...	...	...	...	...	...	1	2	...	...	...	3
Total for Supreme and county courts.....	2	2	10	15	2	2	5	3	1	4	...	...	...	46
Grand total.....	40	52	59	64	41	52	71	62	39	51	36	45	2	614

TABLE 1c.—MEN PLACED ON PROBATION

COURTS														
CRIME														
Albany Police.....														
Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Month un- stated	Total	
2	3	3	1	3	1	3	2	1	1	1	1	..	16	
2	1	4	4	5	5	3	3	7	3	6	3	..	40	
1	1	..	1	1	1	1	10	4	2	4	4	..	55	
..	1	..	1	2	..	3	..	..	2	2	2	..	24
255	166	113	202	181	146	145	186	191	110	183	202	..	2,070	
1	2	4	1	3	3	3	1	..	..	..	..	10	23
1	4	..	3	1	2	2	2	6	7	2	6	..	30	
..	2	..	1	1	2	4	3	4	1	2	3	..	20	
..	2	..	1	1	1	2	..	..	..	2	5	..	20
..	..	..	1	..	3	1	..	5	7	6	1	..	17
11	3	6	5	3	7	1	6	5	..	4	1	..	56	
..	..	..	..	..	..	..	..	..	..	..	..	..	1
8	17	14	25	21	15	7	10	16	25	13	16	..	189	
..	..	..	..	..	..	..	4	3	..	2	..	..	10
6	4	6	7	7	8	6	6	8	8	1	3	..	4	
..	..	..	..	4	5	3	4	..	7	17	4	..	60
2	1	1	94	126	142	147	127	126	116	147	142	..	24	
116	112	94	199	112	255	250	245	226	237	245	230	..	1,501	
221	263	180	390	41	43	55	33	41	50	39	32	..	2,654	
51	67	58	33	29	39	33	26	40	45	19	22	..	846	
46	32	41	33	6	6	6	3	5	3	9	3	..	407	
7	4	4	5	2	4	1	1	3	3	2	2	..	61	
1	1	2	4	2	4	1	1	3	3	2	2	..	19	
1	1	1	2	2	4	1	1	3	3	2	2	..	64	
..	27	
..	35	
..	16	
..	3	
..	34	
..	32	
..	321	
..	6	

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STATE PROBATION COMMISSION

TABLE 1c — MEN PLACED ON PROBATION — (Concluded)

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Month unstatd	Total
SUPREME AND COUNTY COURTS — (Concluded)														
.....	4	...	3	...	5	2	1	...	3	...	...	...	...	18
.....	79	74	53	75	84	78	103	110	115	62	51	43	...	3
.....	...	...	...	...	...	13	3	6	10	2	...	5	...	927
.....	7	2	20	4	7	14	2	6	8	1	...	1	...	46
.....	9	14	2	9	2	2	4	6	7	3	...	...	...	68
.....	3	1	...	...	2	...	...	...	3	...	...	...	...	63
.....	...	...	...	...	4	...	...	3	10	2	...	1	...	10
.....	1	7	1	...	4	3	2	...	6	...	...	2	...	20
.....	...	...	...	...	4	...	...	...	...	...	...	1	...	26
.....	...	...	...	...	1	18	1	18	11	2	2	1	...	3
.....	...	...	...	...	7	...	3	...	...	...	...	2	...	71
.....	4	...	1	3	...	...	...	5	...	...	...	...	...	10
.....	...	1	...	...	...	...	...	...	1	2	...	...	...	13
.....	...	...	...	...	...	...	1	2	12	...	...	2	...	4
.....	1	1	...	2	...	...	...	4	3	...	...	...	...	26
.....	...	...	...	...	...	...	...	...	1	...	...	...	...	11
.....	...	...	...	3	1	...	3	4	...	...	...	4	...	1
.....	...	...	...	...	...	...	...	...	1	...	...	...	...	17
.....	...	...	...	...	...	...	...	...	...	...	...	...	...	11
.....	...	...	...	...	...	...	...	...	...	...	...	...	...	9
.....	2	...	...	...	...	...	...	...	...	...	...	...	...	4
.....	3	...	...	...	...	...	...	...	...	...	...	...	...	3
.....	2	2	6	2	...	...	...	...	1	...	3	2	...	25
.....	...	...	...	...	2	...	2	...	6	...	...	...	...	6
Total for Supreme and county courts.	186	164	154	144	204	197	196	230	263	93	76	95	20	2,024
Grand total.....	1,022	932	795	890	834	984	988	1,040	1,097	859	885	881	74	11,281

TABLE 2a — CLASSIFICATION OF CHARGES IN CASES OF BOYS PLACED ON PROBATION

COURTS	Assault	Burglary or robbery	Disorderly or ungovernable child	Improper guardianship	Larceny or kindred offenses	Malicious mischief, breach of peace or disorderly conduct	Truancy	Violation of local ordinances	Other and unstated charges	Total
CITY	1	16	2	2	17	2	1	1	4	41
.....	1	.....	13	.....	13	6	1	.....	2	34
.....	.....	.....	1	.....	3	9	.....	6	7	13
.....	1	.....	4	2	6	2	1	.....	1	30
.....	6	37	11	.....	116	2	13	.....	4	10
.....	.....	3	2	.....	7	.....	.....	.....	.....	196
.....	.....	.....	.....	.....	2	.....	1	.....	.....	9
.....	.....	.....	.....	.....	11	.....	1	.....	.....	4
.....	.....	.....	.....	.....	3	.....	2	.....	.....	2
.....	.....	.....	.....	.....	11	.....	1	.....	.....	15
.....	.....	.....	.....	.....	3	.....	2	.....	.....	8
.....	.....	.....	.....	.....	13	.....	1	.....	.....	11
.....	.....	.....	.....	.....	17	.....	4	.....	.....	31
.....	.....	.....	.....	.....	3	.....	1	.....	.....	26
.....	.....	.....	.....	.....	13	.....	4	.....	.....	9
.....	1	.....	.....	.....	26	.....	13	.....	.....	66
.....	.....	.....	.....	.....	27	.....	7	.....	.....	45
.....	.....	.....	.....	.....	13	.....	1	.....	.....	45
.....	4	.....	.....	.....	14	.....	.....	.....	.....	27
.....	.....	10	.....	.....	13	.....	1	.....	.....	17
.....	.....	1	.....	.....	14	.....	.....	.....	.....	17
.....	.....	.....	.....	.....	411	394	.....	13	.....	1,001
New York county	46	231	193	340	411	394	.....	13	.....	1,001
Kings county	46	213	204	76	238	136	3	6	115	1,137
Queens county	15	25	26	45	60	23	.....	2	23	232
Richmond county	3	19	8	65	30	21	.....	.....	19	104
Bronx county	16	113	61	14	120	65	.....	1	25	435
.....	.....	.....	.....	.....	.....	1	.....	.....	1	3
.....	.....	.....	.....	.....	.....	.....	3	.....	.....	3
.....	1	.....	.....	.....	.....	.....	.....	.....	.....	3
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	4
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	42
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	16
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	67
.....	7	13	3	.....	25	.....	.....	.....	.....	93
.....	.....	.....	18	14	47	.....	.....	.....	.....	93

TABLE 2a — CLASSIFICATION OF CHARGES IN CASES OF BOYS PLACED ON PROBATION — (Concluded)

COURTS	Assault	Burglary or robbery	Disorderly or ungov- ernable child	Improper guardian- ship	Larceny or kindred offenses	Malicious mischief, breach of peace or disorderly conduct	Truancy	Violation of local ordi- nances	Other and unstat- ed charges	Total
CITIES — (Concluded)										
Troy City.....	2	8	3	.....	17	6	31	.....	1	68
Utica City.....	2	.....	43	6	33	.....	12	103
Watertown City.....	4	.....	1	.....	.....	.....	.....	5
Watervliet City.....	2	.....	.....	.....	.....	2
Yonkers City.....	2	1	16	.....	40	1	20	.....	59	141
Total for cities.....	154	791	592	459	1,429	754	158	67	392	4,796
{ TOWNS AND VILLAGES IN —										
Albany county.....	3	.....	.....	1	.....	.....	.....	1	5
Clinton county.....	1	.....	4	.....	2	.....	.....	.....	.....	7
Dutchess county.....	1	1	.....	.....	14	16
Erie county.....	1	.....	.....	.....	.....	.....	.....	.....	1
Franklin county.....	6	.....	.....	.....	.....	.....	.....	.....	6
Montgomery county.....	1	.....	.....	.....	.....	.....	.....	.....	1
Oneida county.....	1	.....	1	.....	.....	.....	.....	.....	.....	2
Onondaga county.....	4	.....	.....	.....	.....	4
Rockland county.....	1	.....	.....	.....	.....	1
Schenectady county.....	3	.....	3	3	.....	.....	.....	9
Steuben county.....	1	.....	.....	.....	.....	1
Suffolk county.....	10	10
VILLAGES										
Dobbs Ferry.....	2	.....	.....	.....	.....	2
Elmira Heights.....	4	.....	.....	.....	.....	.....	.....	.....	4
Falconer.....	3	.....	.....	.....	3
Lyons.....	1	.....	.....	.....	1
Manlius.....	4	4
Mineola.....	2	2
Owego.....	2	2
Pleasantville.....	1	1
Port Chester.....	1	1
Potdam.....	1	1

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22	1223	1224	1225	1226	1227	1228	1229	1230	1231	1232	1233	1234	1235	1236	1237	1238	1239	1240	1241	1242	1243	1244	1245	1246	1247	1248	1249	1250	1251	1252	1253	1254	1255	1256	1257	1258	1259	1260	1261	1262	1263	1264	1265	1266	1267	1268	1269	1270	1271	1272	1273	1274	1275	1276	1277	1278	1279	1280	1281	1282	1283	1284	1285	1286	1287	1288	1289	1290	1291	1292	1293	1294	1295	1296	1297	1298	1299	1300	1301	1302	1303	1304	1305	1306	1307	1308	1309	1310	1311	1312	1313	1314	1315	1316	1317	1318	1319	1320	1321	1322	1323	1324	1325	1326	1327	1328	1329	1330	1331	1332	1333	1334	1335	1336	1337	1338	1339	1340	1341	1342	1343	1344	1345	1346	1347	1348	1349	1350	1351	1352	1353	1354	1355	1356	1357	1358	1359	1360	1361	1362	1363	1364	1365	1366	1367	1368	1369	1370	1371	1372	1373	1374	1375	1376	1377	1378	1379	1380	1381	1382	1383	1384	1385	1386	1387	1388	1389	1390	1391	1392	1393	1394	1395	1396	1397	1398	1399	1400	1401	1402	1403	1404	1405	1406	1407	1408	1409	1410	1411	1412	1413	1414	1415	1416	1417	1418	1419	1420	1421	1422	1423	1424	1425	1426	1427	1428	1429	1430	1431	1432	1433	1434	1435	1436	1437	1438	1439	1440	1441	1442	1443	1444	1445	1446	1447	1448	1449	1450	1451	1452	1453	1454	1455	1456	1457	1458	1459	1460	1461	1462	1463	1464	1465	1466	1467	1468	1469	1470	1471	1472	1473	1474	1475	1476	1477	1478	1479	1480	1481	1482	1483	1484	1485	1486	1487	1488	1489	1490	1491	1492	1493	1494	1495	1496	1497	1498	149
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TABLE 3a — RESULTS OF PROBATION IN CASES OF BOYS PASSED FROM PROBATION

COURTS	Completed probationary period and discharged with improvement	Completed probationary period and discharged without improvement	Re-arrested and committed	Ab-sconded or lost from oversight	Unstated and other results	Total
Crimes						
Albany Police.....	21	3	1	.....	2	27
Amsterdam Recorder's.....	19	5	8	.....	.....	32
Auburn Recorder's.....	6	1	1	.....	.....	7
Batavia Police.....	14	.....	4	.....	4	22
Binghamton City.....	7	.....	1	1	.....	9
Buffalo Children's.....	134	15	27	3	8	187
Coboes Recorder's.....	12	.....	1	1	7	14
.....	12	.....	1	.....	.....	14
.....	2	.....	2	.....	.....	2
.....	2	.....	.....	.....	.....	2
.....	10	2	.....	.....	.....	17
.....	23	2	1	.....	5	31
.....	5	4	.....	1	4	9
.....	49	.....	.....	.....	.....	64
.....	23	14	.....	1	.....	42
.....	41	7	3	.....	.....	51
.....	7	.....	5	3	1	16
.....	8	.....	.....	.....	.....	8
New York county.....	1,204	14	282	7	.....	1,607
Kings county.....	908	2	165	.....	.....	1,165
Queens county.....	202	2	23	.....	.....	226
Richmond county.....	145	1	5	.....	1	152
Bronx county.....	247	1	66	.....	.....	314
.....	2	.....	.....	.....	.....	2
.....	1	.....	.....	.....	.....	1
.....	2	.....	.....	.....	.....	2
.....	9	.....	.....	.....	.....	9
.....	24	2	4	.....	1	31
.....	8	3	2	.....	.....	13
.....	6	1	3	.....	.....	9
.....	71	2	9	4	.....	94
.....	91	1	20	.....	.....	112

Troy City.....	41	5	3	.....	10	50
Utica City.....	83	8	25	.....	1	116
Watertown City.....	3	.....	.....	.....	4	7
Watervliet City.....	4	.....	.....	.....	.....	4
Yonkers City.....	112	5	13	.....	.....	130
Total for cities.....	3,751	100	673	21	60	4,605
TOWNS AND VILLAGES IN —						
Albany county.....	8	.....	1	.....	.....	9
Clinton county.....	2	.....	.....	.....	.....	2
Dutchess county.....	1	.....	.....	.....	.....	1
Erie county.....	14	.....	1	.....	.....	1
Montgomery county.....	10	.....	.....	.....	.....	1
Oneida county.....	8	.....	.....	.....	.....	10
Onondaga county.....	7	.....	2	.....	1	4
Rockland county.....	.....	.....	1	.....	.....	10
Schenectady county.....	3	.....	.....	.....	.....	1
Steuben county.....	.....	.....	.....	.....	.....	1
Suffolk county.....	.....	.....	.....	.....	.....	3
VILLAGES						
Dobbs Ferry.....	.....	.....	.....	.....	2	2
Elmira Heights.....	4	.....	.....	.....	.....	4
Falconer.....	3	.....	.....	.....	.....	3
Goshen.....	1	.....	.....	.....	.....	1
Lyons.....	1	.....	.....	.....	.....	2
Mineola.....	.....	.....	.....	.....	.....	5
Owego.....	2	.....	1	.....	.....	1
Penn Yan.....	.....	.....	.....	.....	.....	1
Pleasantville.....	6	.....	1	.....	.....	1
Port Chester.....	4	.....	.....	.....	.....	7
Potsdam.....	3	.....	1	.....	.....	4
Rye.....	.....	.....	.....	.....	.....	3
Southampton.....	.....	.....	.....	.....	2	1
South Nyack.....	3	.....	1	.....	1	1
Spring Valley.....	.....	.....	.....	.....	.....	4
Tuckahoe.....	2	.....	.....	.....	.....	1
Walton.....	.....	.....	.....	.....	.....	3
Waverly.....	.....	.....	.....	.....	.....	1
TOWNS						
Chautauque county, town of Ellicott.....	2	.....	.....	.....	.....	2
Chenango county, town of New Berlin.....	6	.....	.....	.....	.....	1
Dutchess county, town of Poughkeepsie.....	1	.....	.....	.....	.....	1
Herkimer county, town of Manheim.....	.....	.....	.....	.....	.....	.....

TABLE 3a — RESULTS OF PROBATION IN CASES OF BOYS PASSED FROM PROBATION — (Concluded)

COURTS	Completed probation-ary period and dis-charged with improve-ment	Completed probation-ary period and dis-charged without improve-ment	Re-arrested and com-mitted	Ab-sconded or lost from over-sight	Unstated and other results	Tota
Towns — (Concluded)						
Jefferson county, town of Alexandria.....	.....	.....	.....	.....	1	1
Jefferson county, town of Wilna.....	1	.....	.....	.....	.....	1
Nassau county, town of Hempstead.....	.....	.....	2	.....	.....	2
Nassau county, town of North Hempstead.....	1	.....	.....	.....	2	3
Saratoga county, town of Milton.....	.....	.....	1	.....	.....	1
Sullivan county, town of Thompson.....	.....	.....	.....	.....	1	1
Westchester county, town of Mamaroneck.....	.....	.....	.....	.....	5	5
Total for towns and villages.....	90	.....	12	2	24	128
SUPREME AND COUNTY COURTS						
Essex County.....	1	.....	.....	.....	.....	1
Lewis County.....	1	.....	.....	.....	.....	1
Monroe County, Children's Part.....	131	1	23	.....	4	159
Ontario County, Children's Part.....	3	.....	5	.....	1	9
Suffolk County.....	2	.....	.....	.....	.....	2
Ulster Supreme.....	.....	.....	.....	1	.....	1
Total for Supreme and county courts.....	138	1	28	1	5	173
Grand total.....	3,979	101	713	24	89	4,906

TABLE 3b — RESULTS OF PROBATION IN CASES OF GIRLS PASSED FORM PROBATION — (Concluded)

COURTS	Completed probationary period and charged with improvement	Completed probationary period and discharged without improvement	Re-arrested and committed	Ab-sconded or lost from oversight	Unstated and other results	Total
TOWNS AND VILLAGES IN —						
Cayuga county.....	1	.....	.....	.....	.....	1
Clinton county.....	2	.....	.....	.....	.....	2
Cortland county.....	.....	.....	1	.....	.....	1
Franklin county.....	.....	.....	1	.....	.....	1
VILLAGES						
Mineola.....	.....	.....	.....	.....	1	1
Pleasantville.....	.....	.....	.....	.....	1	1
Port Chester.....	1	.....	.....	.....	.....	1
Potsdam.....	.....	.....	1	.....	.....	1
TOWNS						
Chenango county, town of New Berlin.....	2	.....	.....	.....	1	3
Nassau county, town of North Hempstead.....	.....	.....	.....	.....	1	1
Saratoga county, town of Corinth.....	.....	.....	1	.....	.....	1
Total for towns and villages.....	6	.....	4	.....	4	14
COUNTY COURTS						
Monroe County, Children's Part.....	32	.....	10	.....	1	43
Ontario County, Children's Part.....	1	.....	.....	.....	.....	1
Total for county courts.....	33	.....	10	.....	1	44
Grand total.....	466	7	89	1	9	572

TABLE 3c — RESULTS OF PROBATION IN CASES OF MEN PASSED FROM PROBATION

[illegible]

TABLE 3c — RESULTS OF PROBATION IN CASES OF MEN PASSED FROM PROBATION — (Continued)

COURTS	Completed probation-ary period and charged with improve-ment	Completed probation-ary period and dis-charged without improve-ment	Rearrested and committed	Absconded or lost from oversight	Unstated and other results	Total
CITIES — (Concluded)						
Norwich Police.....	22	3	2	.....	.....	27
Ogdensburg Recorder's.....	10	1	.....	.....	.....	11
Oswego Recorder's.....	1	.....	.....	.....	.....	1
Plattsburg City.....	23	2	.....	.....	.....	25
Poughkeepsie City.....	18	4	3	2	3	30
Rochester Police.....	158	14	34	25	4	235
Rome City.....	4	.....	1	1	.....	6
Saratoga Springs City.....	35	8	9	.....	.....	52
Schenectady Police.....	11	1	3	.....	1	16
Syracuse Special Sessions.....	226	23	16	4	1	270
Troy City.....	10	1	1	.....	.....	12
Utica City.....	84	24	9	.....	3	120
Watertown City.....	7	2	.....	1	3	13
Watervliet City.....	1	.....	.....	.....	.....	1
Yonkers City.....	57	10	11	2	.....	80
Total for cities.....	6,590	677	924	456	186	8,833
TOWNS AND VILLAGES IN —						
Albany county.....	2	.....	.....	.....	.....	2
Cayuga county.....	2	.....	.....	.....	.....	2
Clinton county.....	4	.....	.....	.....	.....	4
Cortland county.....	14	5	.....	.....	.....	19
Dutchess county.....	29	3	1	1	.....	34
Erie county.....	3	.....	.....	1	.....	4
Fulton county.....	3	.....	1	.....	.....	4
Lewis county.....	5	.....	2	.....	1	8
Niagara county.....	1	.....	.....	1	.....	2
Oneida county.....	33	4	6	3	.....	46
Onondaga county.....	9	.....	2	1	1	13
Orange county.....	1	.....	.....	.....	.....	1

[illegible]

TABLE 3d — RESULTS OF PROBATION IN CASES OF WOMEN PASSED FROM PROBATION

COURTS	Completed probationary period and discharged with improvement	Completed probationary period and discharged without improvement	Rearrested and committed	Absconded or lost from oversight	Unstated and other results	Total
CITIES						
Albany Police	5	3	5	.....	1	11
Amsterdam Recorder's	7	1	7	.....	1	10
Binghamton City	16	1	.....	5	.....	20
Buffalo Children's	35	16	25	9	3	35
.....	120	.....	.....	.....	2	122
.....	1	.....	.....	.....	.....	2
.....	2	.....	.....	1	.....	3
.....	.....	.....	.....	.....	3	3
.....	5	1	.....	.....	.....	6
.....	4	.....	.....	.....	.....	4
.....	22	8	.....	.....	.....	30
.....	7	.....	3	.....	1	11
Division	325	11	33	38	.....	407
Division	355	19	55	45	4	473
.....	91	.....	6	5	.....	102
.....	35	.....	6	.....	.....	41
.....	3	.....	2	.....	.....	5
.....	4	.....	.....	.....	.....	4
.....	5	.....	2	.....	.....	7
.....	2	.....	.....	.....	.....	2
.....	2	.....	.....	.....	.....	2
.....	2	.....	.....	.....	1	3
.....	5	.....	.....	.....	.....	5
.....	1	1	14	4	1	22
.....	32	1	.....	.....	.....	33
.....	1	1	.....	.....	.....	2
.....	1	1	.....	.....	.....	2
.....	1	1	.....	.....	.....	2
.....	23	1	3	.....	.....	27
.....	10	.....	.....	.....	.....	10

Watertown City	1,131	63	103	2	107	2	34
Yonkers City	1,024	1	103	2	107	2	1,483
Total for cities							
TOWNS AND VILLAGES IN							
VILLAGES							
Clinton county	24						1,022
Ortland county							1,021
Dutchess county							1
Onondaga county							2
Hoodak Falls							16
Port Chester							
South Nyack							
Waverly							
TOWN							
Saratoga county, town of Corinth	8	1	2	1	1	3	
Total for towns and villages							
SUPREME AND COUNTY COURTS							
Albany County	4						1
Broome County	2						4
Cattaraugus County	2						2
Chemung County	1						1
Chenango County	1						1
Columbia County	1						1
Delaware County	1						1
Dutchess County	1						1
Essex County	1						1
Hamilton County	1						1
Montgomery County	1						1
Nassau County	1						1
Orange County	1						1
Putnam County	1						1
Saratoga County	1						1
Schenectady County	1						1
Schoharie County	1						1
Seneca County	1						1
St. Lawrence County	1						1
Tioga County	1						1
Town of Corinth	1						1
Waverly	1						1
Total for Supreme and county courts	50	1	7	9	9	2	99
Grand total	1,139	65	173	117	117	34	1,867

TABLE 4 — NUMBER OF PERSONS REMAINING ON PROBATION ON
SEPTEMBER 30, 1915

COURTS	Boys	Girls	Men	Women	Total
CITIES					
Albany Police.....	36	4	9	7	56
Amsterdam Recorder's.....	14	.....	21	4	39
Auburn Recorder's.....	12	.....	58	9	79
Batavia Police.....	23	.....	.....	.....	23
Binghamton City.....	6	.....	17	11	34
Buffalo Children's.....	130	6	14	7	157
Buffalo City.....	.....	.....	1,320	135	1,455
Canandaigua Police.....	.....	.....	1	.....	1
Cohoes Recorder's.....	2	.....	.....	.....	2
Cortland City.....	2	1	33	3	39
Elmira Recorder's.....	10	.....	20	.....	30
Gloversville Recorder's.....	.....	.....	16	.....	16
Hornell Recorder's.....	8	.....	14	3	25
Hudson City.....	11	.....	.....	.....	11
Ithaca City.....	9	3	1	3	16
Jamestown Police.....	8	.....	17	.....	25
Johnstown Recorder's.....	.....	.....	1	.....	1
Kingston Recorder's.....	17	.....	1	.....	18
Lackawanna City.....	8	5	92	15	120
Lockport Police.....	.....	.....	8	.....	8
Middletown Recorder's.....	.....	.....	3	.....	3
Mount Vernon City.....	51	2	76	4	133
Newburgh Recorder's.....	21	.....	29	1	51
New Rochelle City.....	9	.....	3	.....	12
New York City Board of Magistrates, 1st Division.....	.....	.....	1,041	234	1,275
New York City Board of Magistrates, 2nd Division.....	.....	.....	1,883	200	2,083
New York City Special Sessions, Manhattan.....	.....	.....	229	44	273
New York City Special Sessions, Brooklyn.....	.....	.....	196	10	206
New York City Special Sessions, Queens.....	.....	.....	23	.....	23
New York City Special Sessions, Richmond.....	.....	.....	13	.....	13
New York City Special Sessions, Bronx.....	.....	.....	31	4	35
New York City Children's, New York county.....	889	127	.....	.....	1,016
New York City Children's, Kings county.....	417	61	.....	.....	478
New York City Children's, Queens county.....	117	35	.....	.....	152
New York City Children's, Richmond county.....	115	58	.....	.....	173
New York City Children's, Bronx county.....	219	19	.....	.....	238
Niagara Falls Police.....	2	.....	21	1	24
North Tonawanda City.....	1	.....	13	6	20
Norwich Police.....	2	.....	10	.....	12
Ogdensburg Recorder's.....	2	.....	5	.....	7
Oswego Recorder's.....	1	.....	2	.....	3
Plattsburg City.....	2	.....	20	1	23
Poughkeepsie City.....	19	.....	11	.....	30
Rensselaer City.....	.....	.....	1	.....	1
Rochester Police.....	.....	.....	122	70	192
Rome City.....	10	1	7	.....	18
Saratoga Springs City.....	2	.....	28	1	31
Schenectady Police.....	45	3	18	4	70
Syracuse Special Sessions.....	71	19	155	16	261
Troy City.....	38	.....	6	.....	44
Utica City.....	28	4	71	6	109
Watertown City.....	7	1	12	3	23
Watervliet City.....	3	.....	1	.....	4
Yonkers City.....	55	6	25	.....	86
Total for cities.....	2,422	355	5,698	802	9,277
TOWNS AND VILLAGES IN —					
Cayuga county.....	.....	.....	5	.....	5
Clinton county.....	7	.....	4	.....	11
Cortland county.....	.....	.....	43	4	47
Dutchess county.....	14	.....	39	2	55
Erie county.....	.....	.....	3	.....	3
Franklin county.....	6	1	.....	.....	7
Fulton county.....	.....	.....	1	.....	1
Lewis county.....	1	2	2	.....	5
Niagara county.....	.....	.....	1	.....	1
Oneida county.....	1	.....	24	1	26
Onondaga county.....	4	1	13	.....	18
Orange county.....	.....	.....	7	.....	7
St. Lawrence county.....	.....	.....	1	.....	1
Schenectady county.....	5	.....	.....	.....	5
Steuben county.....	.....	.....	3	.....	3
Suffolk county.....	12	1	1	.....	14

TABLE 4 — NUMBER OF PERSONS REMAINING ON PROBATION ON
SEPTEMBER 30, 1915 — (Concluded)

COURTS	Boys	Girls	Men	Women	Total
VILLAGES					
Attica.....			4		4
Elmira Heights.....	4				4
Falconer.....		1			1
Lyons.....	1				1
Malone.....	2				2
Manlius.....	4				4
Owego.....	1				1
Potsdam.....		1			1
Rye.....			2		2
St. Johnsville.....			20		20
Suffern.....			2		2
TOWNS					
Delaware county, town of Sidney.....			4		4
Herkimer county, town of Manheim.....	2				2
Jefferson county, town of Wilna.....	1				1
Nassau county, town of Hempstead.....	3	3			6
Nassau county, town of Oyster Bay.....			2		2
Niagara county, town of Lewiston.....	1		1		2
Rensselaer county, town of Berlin.....			1		1
Saratoga county, town of Corinth.....			1		1
Saratoga county, town of Milton.....	1		7	1	9
Saratoga county, town of Moreau.....			1		1
Total for towns and villages.....	70	10	192	8	280
SUPREME AND COUNTY COURTS					
Albany Supreme and County.....			51		51
Bronx County.....			115	7	122
Broome Supreme and County.....			6		6
Cayuga Supreme and County.....			9		9
Chautauqua Supreme and County.....			5		5
Chemango Supreme and County.....			4		4
Clinton Supreme and County.....			9		9
Columbia County.....			5		5
Cortland Supreme and County.....			2		2
Delaware Supreme and County.....			6	1	7
Dutchess Supreme and County.....			16		16
Erie Supreme and County.....	6		264	2	272
Essex County.....			18	2	20
Franklin Supreme and County.....			24		24
Fulton Supreme and County.....	1		8		9
Gloucester County.....			1		1
Jefferson Supreme and County.....			36	1	37
Kings County.....				1	1
Lewis County.....			5		5
Madison County.....			5		5
Monroe County.....			44	1	45
Monroe County, Children's Part.....	67	22			89
Montgomery Supreme and County.....			13		13
Nassau County.....			3	1	4
New York Supreme and General Sessions.....			988	78	1,066
Niagara Supreme and County.....			36	1	37
Oneida Supreme and County.....			83		83
Onondaga Supreme and County.....			46		46
Ontario Supreme and County.....			15		15
Ontario County, Children's Part.....	49	23			72
Orange Supreme and County.....			16		16
Oswego Supreme and County.....			41	3	44
Otsego Supreme and County.....			9		9
Putnam County.....			1		1
Queens County.....			81	1	82
Rensselaer Supreme and County.....			10		10
Richmond Supreme and County.....			9	1	10
Rockland Supreme and County.....			4	1	5
St. Lawrence Supreme and County.....			21		21
Saratoga Supreme and County.....			7		7
Seneca County.....			1		1
Steuben Supreme and County.....			17	1	18
Suffolk Supreme and County.....			15	3	18
Ulster Supreme.....			1		1
Warren Supreme and County.....			2		2
Wayne County.....			1		1
Westchester Supreme and County.....			22		22
Wyoming Supreme and County.....			2		2
Total for Supreme and county courts.....	123	45	2,077	105	2,350
Grand total.....	2,615	410	7,967	915	11,907

TABLE 5b — INVESTIGATIONS IN CASES OF GIRLS

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
CRIMES													
.....	2	1	1	4	6	11	6	4	1	12	7	4	42
.....	5	9	10	5	4	1	1	1	2	1	1	2	77
.....	6	1	4	2	1	1	1	1	2	1	1	1	26
.....	.....	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	10
.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	12
.....	15	14	22	14	15	15	31	27	11	16	7	20	207
.....	.....	.....	.....	.....	.....	.....	16	21	10	16	4	10	77
New York county.....	.....	.....	.....	.....	.....	.....	.....	2	3	8	6	6	39
Kings county.....	.....	.....	8	6	1	.....	.....	4	.....	.....	2	4	15
Queens county.....	.....	1	.....	1	.....	.....	.....	2	.....	.....	.....	.....	36
Richmond county.....	.....	1	4	7	4	2	4	.....	.....	.....	.....	.....	4
Bronx county.....	.....	1	1	1	1	.....	.....	.....	.....	.....	.....	.....	79
.....	12	6	5	9	11	8	6	4	6	2	6	4	5
TOWNS AND VILLAGES IN —													
Total for cities.....	40	35	62	51	41	39	63	68	41	60	43	50	593
VILLAGES													
Cayuga county.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
Cortland county.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	1
Manlius.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	7
Port Chester.....	.....	.....	.....	.....	.....	.....	.....	7	.....	.....	.....	.....	1
TOWNS													
Chenango county, town of New Berlin.....	.....	.....	.....	.....	.....	3	3	4	.....	.....	.....	.....	10
Nassau county, town of Hempstead.....	.....	.....	.....	.....	1	.....	.....	1	.....	1	.....	.....	3
Total for towns and villages.....	.....	.....	2	.....	1	4	3	12	.....	1	.....	.....	23
COUNTY COURT													
Monroe County, Children's Part.....	.....	2	1	5	7	5	5	2	6	4	2	3	43
Grand total.....	40	37	63	56	49	48	71	82	47	65	45	53	655

TABLE 5c — INVESTIGATIONS IN CASES OF MEN

COURTS —	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
CRIME													
.....	4	15	10	6	6	12	15	1	.....	1	5	3	1
.....	26	4	9	.....	.....	11	9	.....	8	11	20	35	14
.....	275	203	149	243	235	189	200	239	287	184	237	234	107
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	1	109
.....	4	3	4	10	1	.....	6	6	.....	11	10	3	2,675
.....	.....	.....	.....	.....	.....	10	.....	.....	6	.....	.....	.....	2
.....	.....	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	.....	1
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	82
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	35
Division	136	170	140	169	139	160	129	139	182	172	149	133	1,818
Division	296	175	225	166	158	206	212	242	235	215	109	155	2,405
.....	200	213	235	243	167	175	202	137	149	175	153	138	2,187
.....	106	117	135	135	96	110	110	91	141	111	92	88	1,332
.....	15	15	12	16	14	15	11	5	11	13	25	16	1,163
.....	4	4	4	.....	5	15	2	4	8	.....	5	7	58
.....	17	15	25	20	22	17	29	27	9	26	15	22	244
.....	2	3	2	2	2	.....	.....	.....	.....	.....	.....	.....	10
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	4
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2
.....	16	13	10	15	12	18	20	.....	21	.....	.....	.....	125
.....	10	14	12	12	14	5	31	40	45	31	11	12	5
.....	.....	.....	.....	.....	.....	4	.....	1	.....	3	.....	.....	260
.....	4	.....	1	6	8	.....	.....	3	2	.....	1	.....	1
.....	10	38	30	13	15	15	10	9	40	25	40	30	28
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	9
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	275
Total for cities.....	1,129	1,004	1,022	1,058	907	992	992	951	1,151	983	884	886	11,961
TOWNS AND VILLAGES IN—													
Cayuga county.....	1	3	2	1	.....	.....	.....	.....	4	3	.....	.....	14
Dutchess county.....	6	9	8	4	1	5	5	7	7	2	4	3	61
Lewis county.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	1
Oneida county.....	.....	3	5	2	1	2	.....	.....	2	6	1	2	2

TABLE 5d — INVESTIGATIONS IN CASES OF WOMEN

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
CITIES													
Albany Police.....	1	...	...	2	...	3	2	...	2	2	...	...	12
Auburn Recorder's.....	...	...	...	...	...	4	4	...	...	...	...	6	18
Binghamton City.....	2	2	1	2	...	2	...	...	...	...	1	2	12
Buffalo Children's.....	6	5	4	9	3	4	7	...	8	13	11	9	79
Buffalo City.....	24	20	23	38	17	14	19	12	30	31	34	29	291
Ithaca City.....	3	3	3	1	2	...	...	...	...	...	...	...	12
Lackawanna City.....	2	3	...	5	2	5	7	9	4	5	5	6	53
Mount Vernon City.....	...	2	1	...	1	...	1	1	1	1	1	2	11
New York City Board of Magistrates, 1st Division.....	63	76	71	93	74	66	81	80	96	87	81	95	963
New York City Board of Magistrates, 2nd Division.....	128	139	106	69	66	69	83	91	122	83	55	100	1,111
New York City Special Sessions, Manhattan.....	34	24	34	47	29	32	37	33	24	22	15	29	1,360
New York City Special Sessions, Brooklyn.....	15	15	25	15	12	13	12	14	22	12	5	3	163
New York City Special Sessions, Queens.....	...	...	1	...	1	...	1	...	1	...	2	1	7
New York City Special Sessions, Richmond.....	...	2	...	3	...	...	...	...	...	...	2	...	2
New York City Special Sessions, Bronx.....	...	...	5	...	...	...	...	1	...	...	3	...	16
Niagara Falls Police.....	1	...	...	1	1	...	...	...	...	...	...	...	3
Rochester Police.....	12	5	16	26	22	31	78	23	31	24	39	35	342
Syracuse Special Sessions.....	6	4	4	3	3	6	9	12	10	8	9	8	82
Utica City.....	...	...	1	...	...	2	...	...	...	2	...	...	5
Watertown City.....	...	...	...	...	...	...	2	...	...	...	...	5	7
Yonkers City.....	...	...	3	...	...	...	...	...	...	...	2	1	6
Total for cities.....	297	300	298	314	233	251	343	276	352	290	269	332	3,555
TOWNS AND VILLAGES IN—													
Cayuga county.....	...	1	...	...	...	...	...	...	...	...	...	...	1
Dutchess county.....	1	...	...	1	...	...	...	...	...	...	1	...	3
Oneida county.....	...	...	...	...	...	...	...	...	1	...	...	...	1
Total for towns and villages.....	1	1	...	1	...	...	...	...	1	...	1	...	5
SUPREME AND COUNTY COURTS													
Bronx County.....	...	...	...	6	...	...	...	...	1	...	...	1	8
Cayuga Supreme and County.....	...	1	...	...	1	...	...	...	...	...	...	...	2
Errie County.....	...	3	1	...	3	1	3	...	...	...	...	2	13
Franklin Supreme and County.....	...	1	...	...	...	...	...	...	1	...	...	...	2

New York Supreme and General Sessions.....	14	17	21	19	18	21	6	21	13	9	13	3	175
Oneida Supreme and County.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
Richmond Supreme and County.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
Total for Supreme and county courts.....	14	23	23	25	22	22	9	22	15	9	13	6	203
Grand total.....	312	324	320	340	255	273	352	298	308	299	283	338	3,762

STATE PROBATION COMMISSION

TABLE 6a — HOME VISITS IN CASES OF BOYS

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
CITIES													
.....	40	25	30	26	14	9	9	3	6	24	2	2	57
.....	2	4	4	4	10	14	20	10	20	24	20	20	259
.....	8	14	13	12	6	4	4	4	4	6	3	3	45
.....	77	113	105	100	87	10	14	12	12	8	6	12	130
.....	11	16	16	12	16	81	129	128	119	130	108	120	1,297
.....	2	2	2	2	2	18	16	12	10	10	8	6	151
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10
.....	2	8	6	8	2	2	.....	1	.....	4	3	7	17
.....	.....	.....	.....	.....	.....	.....	.....	2	4	4	6	12	54
.....	10	8	14	4	6	11	16	12	16	12	15	9	17
.....	.....	2	3	3	3	2	.....	5	5	2	2	8	128
.....	.....	.....	.....	.....	4	1	3	3	5	8	5	1	27
.....	12	12	9	16	11	18	20	3	27	22	11	14	30
.....	7	3	4	5	3	5	4	4	7	8	6	7	176
.....	3	.....	.....	.....	.....	19	20	20	16	12	14	21	63
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	12	125
.....	2416	1,117	1,232	1,460	1,086	1,279	1,225	1,137	1,129	791	968	971	14,811
New York county.....	777	794	706	712	687	716	615	518	582	469	471	500	7,557
Kings county.....	189	144	169	182	212	204	194	203	261	213	190	245	2,385
Queens county.....	159	152	219	172	114	231	208	208	249	108	108	214	1,934
Richmond county.....	243	258	218	252	203	288	269	280	252	231	203	241	2,937
Bronx county.....	5	2	5	2	2	2	.....	.....	.....	.....	1	.....	19
.....	.....	.....	.....	.....	.....	.....	.....	.....	2	2	2	3	9
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	2
.....	6	22	18	28	16	16	15	12	10	4	6	8	161
.....	21	14	6	8	7	14	20	16	9	12	20	22	169
.....	4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	4
.....	1	1	2	1	4	.....	.....	1	2	3	.....	.....	16
.....	.....	.....	.....	.....	.....	.....	.....	.....	6	.....	.....	.....	15
.....	42	185	172	180	191	188	221	230	241	250	190	210	3,300
.....	.....	19	30	21	9	36	34	47	46	27	5	8	282
.....	41	15	37	52	55	41	36	26	30	18	16	26	292
.....	9	4	7	.....	.....	.....	.....	.....	.....	.....	4	3	27
.....	15	15	14	17	13	12	19	27	37	17	22	21	239
Watertown City.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Yonkers City.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total for cities.....	4,102	2,950	3,045	3,282	2,763	3,225	3,111	2,715	3,117	2,400	2,440	2,729	35,879

TOWNS AND VILLAGES IN—													
Albany county.....	1	3	2	4	3	3	4	6	10	11	3	3	3
Cayuga county.....	2	2	2	4	3	3	4	6	10	11	3	3	3
Clinton county.....	2	2	2	4	3	3	4	6	10	11	3	3	3
Lewis county.....	4	1	1	2	1	1	2	5	2	3	3	3	3
Montgomery county.....	1	1	1	2	1	1	2	5	2	3	3	3	3
Orondaga county.....	1	1	1	2	1	1	2	5	2	3	3	3	3
Suffolk county.....	1	1	1	2	1	1	2	5	2	3	3	3	3
VILLAGES													
Elmira Heights.....	1	1	1	2	1	1	2	5	2	3	3	3	3
Manlius.....	1	1	1	2	1	1	2	5	2	3	3	3	3
South Nyack.....	10	8	2	2	2	4	5	5	2	8	8	36	2
Walton.....	10	8	2	2	2	4	5	5	2	8	8	36	2
Waverly.....	10	8	2	2	2	4	5	5	2	8	8	36	2
TOWNS													
Herkimer county, town of Manheim.....	3	2	6	2	2	5	7	4	3	1	1	8	29
Nassau county, town of Hempstead.....	3	2	6	2	2	5	7	4	3	1	1	8	29
Nassau county, town of North Hempstead.....	3	2	6	2	2	5	7	4	3	1	1	8	29
Nassau county, town of Lewiston.....	3	2	6	2	2	5	7	4	3	1	1	8	29
Niagara county, town of Lewiston.....	3	2	6	2	2	5	7	4	3	1	1	8	29
Total for towns and villages.....	7	15	10	8	8	12	26	26	27	24	24	188	188
SUPREME AND COUNTY COURTS													
Fulton Supreme and County.....	2	1	1	1	1	1	1	1	1	1	1	7	7
Lewis County.....	14	14	19	24	28	52	43	38	13	54	54	841	841
Monroe County, Children's Part.....	14	14	19	24	28	52	43	38	13	54	54	841	841
Suffolk Supreme and County.....	1	1	1	1	1	1	1	1	1	1	1	7	7
Ulster Supreme.....	1	1	1	1	1	1	1	1	1	1	1	7	7
Total for Supreme and county courts.....	15	16	19	25	29	53	40	40	15	56	56	361	361
Grand total.....	4,124	2,981	3,076	3,311	2,796	3,152	3,189	2,466	2,482	2,809	2,809	36,428	36,428

[illegible]

TABLE 6c — HOME VISITS IN CASES OF MEN

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
CITIES													
Albany Police.....	101	82	2	4	1	4	3	1	40	44	3	1	19
Amsterdam Recorder's.....	3	9	64	76	78	86	78	50	12	16	90	75	864
Auburn Recorder's.....	12	17	15	11	10	6	10	20	19	9	8	10	121
Buffalo Children's.....	114	204	209	207	205	227	240	346	394	403	354	371	178
Cohoes Recorder's.....	7	3	1	2	6	9	10	13	13	14	15	18	3,274
Gloversville Recorder's.....	.....	9	8	7	.....	2	12	21	8	4	11	6	6
Hornell Recorder's.....	.....	.....	.....	2	.....	20	24	10	10	10	12	1	129
Ithaca City.....	25	34	25	25	32	20	5	127	127	126	123	127	66
Jamestown Police.....	98	121	87	62	131	141	128	3	6	8	12	7	1
Kingston Recorder's.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	237
Lackawanna City.....	5	5	6	5	4	4	5	9	5	7	8	5	12
Lockport Police.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,398
Middletown Recorder's.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	37
Mount Vernon City.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5
Newburgh Recorder's.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	68
New York City Board of Magistrates, 1st Division.....	737	1,278	1,089	1,145	1,118	1,234	1,117	1,186	1,216	987	769	738	152
New York City Board of Magistrates, 2nd Division.....	108	715	620	504	415	552	505	512	638	484	448	515	11,877
New York City Special Sessions, Manhattan.....	45	86	89	76	112	135	123	121	78	56	56	61	6,645
New York City Special Sessions, Brooklyn.....	20	107	96	101	103	85	80	72	78	43	59	74	1,101
New York City Special Sessions, Queens.....	29	26	29	29	22	20	25	28	24	.....	6	.....	943
New York City Special Sessions, Richmond.....	10	34	30	12	31	44	42	46	46	18	21	.....	229
New York City Special Sessions, Bronx.....	2	18	8	15	10	18	13	12	27	4	16	17	353
Niagara Falls Police.....	.....	3	4	1	2	.....	5	11	16	21	26	28	168
North Tonawanda City.....	.....	.....	.....	.....	2	14	13	16	14	14	20	26	119
Ogdensburg Recorder's.....	.....	.....	.....	48	.....	.....	.....	14	9	12	8	5	48
Plattsburg City.....	4	48	40	.....	54	50	40	43	46	43	40	44	496
Poughkeepsie City.....	.....	8	.....	.....	2	3	4	4	4	6	12	8	55
Rochester Police.....	.....	.....	.....	.....	6	.....	.....	.....	.....	.....	.....	.....	6
Saratoga Springs City.....	5	.....	2	2	4	.....	4	.....	4	8	2	6	37
Syracuse Special Sessions.....	59	204	87	92	97	81	92	196	220	241	184	192	1,745
Troy City.....	.....	1	2	2	5	4	4	5	6	1	.....	1	31
Utica City.....	38	14	47	48	22	48	24	19	28	20	28	38	374
Watertown City.....	10	.....	4	15	.....	.....	15	.....	.....	4	2	.....	20
Yonkers City.....	15	10	15	.....	25	20	15	20	.....	10	20	20	205
Total for cities.....	1,447	3,036	2,597	2,503	2,519	2,850	2,633	2,935	3,134	2,640	2,398	2,446	31,138

TOWNS AND VILLAGES IN—

Albany county
Cayuga county
Clinton county
Dutchess county
Fulton county
Lewis county
Niagara county
Oneida county
Orange county
St. Lawrence county
Steuben county

VILLAGES

Elmira Heights
Manlius
Watton

TOWNS

Delaware county, town of Sidney
Nassau county, town of Oyster Bay

Total for towns and villages

TOWN COUNTS

Albany county
Cayuga county
Clinton county
Dutchess county
Fulton county
Lewis county
Niagara county
Oneida county
Orange county
St. Lawrence county
Steuben county
Elmira Heights
Manlius
Watton
Delaware county, town of Sidney
Nassau county, town of Oyster Bay
Total for towns and villages

34	9	9	15	28	31	42	28	21	39	52	80	338
2	6	4	12	11	21	6	2	6	8	84	3	79
2	65	2	60	26	60	61	93	24	96	62	62	680
2	10	10	10	5	1	6	10	17	20	18	15	124
248	173	221	236	232	226	142	184	272	208	188	193	2,521
3	7	3	6	5	6	6	4	7	10	7	2	40
4	5	4	6	5	6	8	6	4	5	3	7	85
1	2	5	7	6	7	5	14	10	9	8	9	25
8	13	16	2	13	24	24	18	9	26	23	21	83
230	183	213	182	241	210	160	184	168	119	108	123	192
5	25	25	25	2	15	23	26	55	38	34	24	2
25	20	26	25	20	20	30	23	25	30	35	22	2,075
2	28	28	46	30	30	28	44	28	40	32	28	317
1	1	1	1	30	30	28	44	28	40	32	28	6
1	1	1	1	30	30	28	44	28	40	32	28	306
1	1	1	1	30	30	28	44	28	40	32	28	344
1	1	1	1	30	30	28	44	28	40	32	28	2

TABLE 6c — HOME VISITS IN CASES OF MEN — (Concluded)

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
SUPREME AND COUNTY COURTS — (Concluded)													
.....	.....	.....	7	.....	2	6	7	.....	9	.....	.....	.....	23
.....	.....	.....	.....	.....	2	2	1	.....	2	.....	.....	.....	14
.....	.....	.....	.....	.....	8	11	11	10	11	25	13	14	103
.....	.....	.....	.....	.....	1	.....	1	1	.....	.....	2	3	7
.....	.....	.....	.....	3	3	6	7	10	7	5	9	22	73
.....	.....	.....	1	.....	.....	.....	.....	3	2	2	.....	.....	1
.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	9
.....	.....	4	.....	.....	.....	.....	.....	.....	.....	.....	.....	4	8
Total for Supreme and county courts.....	526	468	520	608	614	657	536	637	715	699	550	556	7,056
Grand total.....	2,007	3,513	3,126	3,126	3,161	3,538	3,211	3,600	3,870	3,348	3,000	3,032	38,532

TABLE 6d—HOME VISITS IN CASES OF WOMEN

COURTS													
CITIES													
	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
Albany Police.....	2	.....	7	13	6	8	11	6	10	7	...	...	70
Auburn Recorder's.....	...	...	...	...	1	2	...	...	3	3	...	3	15
Binghamton City.....	30	28	34	26	20	18	30	39	30	28	20	28	331
Buffalo Children's.....	24	44	40	38	36	63	72	92	80	19	15	13	536
Buffalo City.....	...	...	...	...	1	7	4	37	52	44	57	61	263
Fulton City.....	...	1	...	...	...	...	...	...	...	...	...	...	1
Gloversville Recorder's.....	...	...	4	1	1	...	1	1	1	...	...	...	9
Hornell Recorder's.....	...	...	...	...	...	...	7	8	...	3	1	...	20
Ithaca City.....	10	10	10	6	...	...	...	...	...	...	...	3	39
Jamestown Police.....	1	...	2	...	...	...	...	...	...	...	...	...	3
Lackawanna City.....	6	4	9	15	12	19	19	9	14	20	12	17	156
Mount Vernon City.....	3	2	2	...	1	1	4	3	2	2	2	3	25
Newburgh Recorder's.....	...	...	...	...	...	...	...	...	...	...	1	1	2
New York City Board of Magistrates, 1st Division.....	...	131	130	143	107	150	182	160	132	124	100	177	1,536
New York City Board of Magistrates, 2nd Division.....	291	265	270	234	134	186	245	215	271	211	126	266	2,714
New York City Special Sessions, Manhattan.....	36	24	37	26	25	24	27	20	27	22	9	22	299
New York City Special Sessions, Brooklyn.....	20	22	24	29	29	32	38	36	25	29	4	38	326
New York City Special Sessions, Queens.....	...	4	2	3	...	2	2	...	2	...	...	...	15
New York City Special Sessions, Richmond.....	9	8	7	2	...	3	...	...	3	...	...	...	29
New York City Special Sessions, Bronx.....	4	3	...	9	4	6	5	5	...	4	...	3	46
Niagara Falls Police.....	...	...	...	...	...	...	...	...	...	...	...	1	1
North Tonawanda City.....	...	...	...	...	...	...	...	...	...	...	...	...	6
Plattsburg City.....	...	8	10	10	5	5	5	8	12	3	4	2	72
Rochester Police.....	21	19	10	21	7	9	22	11	26	37	18	34	235
Saratoga Springs City.....	1	...	...	...	...	...	...	...	...	1	1	1	4
Syracuse Special Sessions.....	17	42	16	21	24	14	21	18	23	20	32	40	288
Utica City.....	9	6	4	8	5	12	10	8	8	12	6	10	98
Watertown City.....	...	...	...	...	...	...	1	...	...	2	...	...	3
Yonkers City.....	...	...	1	...	...	...	...	2	2	...	...	...	5
Total for cities.....	484	621	619	605	418	561	706	678	723	592	416	724	7,147
TOWNS AND VILLAGES IN—													
Clinton county.....	...	2	1	2	1	2	...	...	...	...	...	...	8
Dutchess county.....	2	...	...	...	1	1	2	2	2	2	1	2	15

TABLE 6d — HOME VISITS IN CASES OF WOMEN — (Concluded)

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
VILLAGE													
Port Chester . . . . .	..	..	4	..	..	..	..	..	..	..	..	..	4
Total for towns and villages,	2	2	5	2	2	3	2	2	2	2	1	3	27
SUPREME AND COUNTY COURTS													
..	..	4	..	4	..	..	..	..	..	3	..	..	11
..	1	..	..	..	..	..	..	..	..	..	..	..	1
..	..	..	1	1	1	..	..	..	..	..	..	..	3
(Sessions..	10	36	14	7	14	8	3	12	10	5	6	3	128
..	..	..	..	..	..	..	..	..	..	2	2	..	4
..	..	..	3	2	3	3	6	6	4	4	4	4	39
..	..	1	..	..	..	..	..	..	..	..	..	..	1
..	..	..	..	1	..	1	..	..	..	..	..	..	2
Total for Supreme and county courts, ..	11	41	18	16	18	12	9	18	14	14	12	7	189
Grand total....	497	664	642	622	438	576	717	698	739	608	429	733	7,363

TABLE 7a — MONEY COLLECTED FROM PROBATIONERS IN FINES — (Concluded)

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Total
<i>Villages</i>													
Pleasantville	\$23 00	20 00	\$12 00	\$37 00	\$21 00	\$12 00	\$1 30	\$5 00	\$3 00	\$7 00	\$26 75	\$33 75	\$3 00
St. Johnsville								1 00	10 00				200 00
<i>Towns</i>													
Allegany county, town of Cuba	6 00	1 50	2 00	2 00	2 00		2 00	2 50					4 50
Dutchess county, town of Poughkeepsie													13 50
Saratoga county, town of Corinth	50	1 50	50				6 00	10 00					18 50
Total for towns and villages	\$45 00	\$26 00	\$34 50	\$103 00	\$28 00	\$24 00	\$63 50	\$46 50	\$63 00	\$31 25	\$47 75	\$44 25	\$587 75
<i>Courts</i>													
.....	\$320 00	\$43 50	\$31 00	\$56 00	\$178 35	\$15 50	\$125 00	\$1,041 00	\$23 50	\$45 15	\$38 90	\$34 50	\$2,051 00
.....	2 00	50 00		35 00	10 00	10 00	35 00		30 00		25 00		135 00
.....				2 00	53 00	52 00		2 00		6 00			100 00
<i>Sessions</i>													
.....	3 00		4 00	16 00	18 00	22 00	4 00	9 00	6 00				12 00
.....						7 00	12 50	33 00	99 00	66 50	67 50	281 50	106 00
.....			650 00	3 00	18 00	106 00	6 00	8 00	5 00		7 00	50 00	557 00
.....			3 50	2 00	1 00	3 00	1 00				2 50		845 00
.....			10 00		25 00				90 00				12 00
.....									6 00	24 50	51 00	5 50	125 00
Total for Supreme and county courts	\$324 00	\$93 50	\$748 50	\$116 00	\$294 85	\$215 50	\$208 50	\$1,083 00	\$301 50	\$142 15	\$191 00	\$371 50	\$4,090 00
Grand total	\$1,710 88	\$1,196 72	\$1,046 85	\$1,330 06	\$1,268 96	\$1,190 00	\$1,169 60	\$2,470 00	\$1,867 65	\$1,111 35	\$1,442 75	\$2,160 73	\$18,698 53

TABLE 7b — MONEY COLLECTED FROM PROBATIONERS IN RESTITUTION AND REPARATION — (Concluded)

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
Towns and Villages in — (Concluded)													
Niagara county									\$8 00	\$7 00			\$15 00
Ontario county		\$4 00	\$8 00										12 00
Orondaga county	\$3 00												3 00
VILLAGES													
Edinboro Heights		\$2 50	\$3 00	\$5 00	\$3 00								\$13 50
St. Johnsville				2 75			\$3 00						5 75
Walton							26 75						26 75
Town													
Chemung county, town of New Berlin					60 00								60 00
Total for towns and villages	\$3 50	\$6 50	\$11 00	\$7 75	\$63 00		\$29 75		\$8 00	\$11 00		\$18 00	\$103 60
SUPREME AND COUNTY COURTS													
Albany Supreme and County	\$473 97	\$272 50	\$479 50	\$50 96	\$256 65	\$457 50	\$511 25	\$742 00	\$519 41	\$394 15	\$450 50	\$352 65	25 00
Erie Supreme and County	4 00	24 00	10 00						13 00	2 00	8 00		5,201 13
Jefferson Supreme and County		23 00	24 00	18 00	156 00	25 00	24 00		36 00	46 25	34 50	60 50	28 00
Lewis County	75 00	3 50	18 00	10 00	11 07	1 10	1 03		1 00	10 00	3 23	4 57	42 00
Monroe County	98 00	280 71	1,410 25	3,347 70	316 00	377 50	357 50	490 75	894 25	337 75	399 75	586 50	561 25
Sessions	263 00								601 00	16 00	23 00	32 00	186 25
									164 00	61 00	23 00	17 00	9,094 26
	23 50	12 00	129 10		1 00	203 00	19 00	18 50	8 00	3 00	4 00	2 00	600 00
	3 50	1 50	2 00	1 00	6 03	8 00		3 00	5 00		4 00	5 75	671 10
	4 00			7 75	26 00								43 00
													14 75
													12 00
													2 00
		41 00	20 00	16 00	31 00	31 00	31 00	31 00	8 00			390 80	389 00
				15 00	10 00							33 00	33 00
		20 00	5 00		30 00	20 00	25 00	45 00	25 00	35 00	18 00	10 00	273 00
ity	40 80					15 00			400 00	2 00	1 00		418 00
	18 10					8 00	7 00	21 73	7 00	6 00	2 50	14 00	18 10
													66 73
Total for Supreme and county courts	\$1,005 67	\$688 21	\$2,068 75	\$3,711 40	\$907 97	\$1,149 60	\$1,002 78	\$1,423 97	\$2,681 66	\$912 15	\$974 03	\$1,484 97	\$17,941 16
Grand total	\$1,821 04	\$1,443 55	\$3,079 87	\$4,443 60	\$1,524 29	\$1,767 26	\$1,615 27	\$2,171 96	\$3,560 25	\$1,653 47	\$2,342 19	\$2,592 09	\$27,815 74

TABLE 7c — MONEY COLLECTED FROM PROBATIONERS FOR SUPPORT OF FAMILIES

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
CITIES													
Amsterdam Recorder's	\$88 00	\$89 00	\$64 00	\$52 70	\$34 50	\$35 80	\$33 00	\$77 00	\$68 00	\$52 25	\$89 00	\$56 84	\$770 00
Auburn Recorder's	711 50	236 01	727 04	684 99	710 41	723 54	652 94	808 66	777 30	862 72	777 13	694 46	8,366 70
Buffalo City	2,940 15	2,927 66	2,549 08	2,586 68	2,086 81	2,532 30	2,223 81	2,246 13	2,646 16	2,222 82	3,596 37	3,396 53	31,953 93
Cortland City	.....	25 00	30 00	40 50	26 50	78 00	62 00	84 50	71 50	112 00	46 00	77 00	653 00
Elmira Recorder's	7 20	3 00	4 00	.....	.....	.....	.....	.....	.....	.....	3 80	6 75	24 75
Gloversville Recorder's	87 85	41 50	98 80	99 32	74 35	60 95	55 10	42 00	48 29	44 00	37 50	42 00	740 66
Ithaca City	.....	.....	.....	.....	27 00	42 00	36 00	12 00	12 00	12 00	12 00	15 00	168 00
Jamestown Police	60 88	133 38	95 01	128 77	137 35	103 35	76 48	89 48	56 50	70 28	71 87	126 30	1,148 60
Kingston Recorder's	.....	.....	.....	.....	8 75	18 25	20 00	.....	.....	.....	.....	.....	42 00
Lackawanna City	130 58	59 42	109 38	83 50	112 25	125 40	94 80	191 80	248 70	163 80	121 49	160 50	1,001 63
Lockport Police	.....	.....	.....	.....	.....	.....	.....	15 50	11 00	28 00	18 00	30 00	102 50
Mount Vernon City	290 75	220 25	176 00	226 50	211 50	271 25	183 35	265 50	215 00	240 00	240 25	196 50	2,736 86
Newburgh Recorder's	.....	.....	.....	.....	11 63	27 71	67 32	107 40	88 00	121 00	108 00	166 36	681 41
New York City Board of Magistrates, 2d Div'n	358 00	316 00	89 00	172 00	143 00	206 50	340 00	291 50	414 00	363 00	238 00	272 00	3,202 00
Niagara Falls Police	10 00	10 00	10 00	10 00	.....	.....	.....	.....	.....	.....	42 50	30 00	112 50
Plattsburg City	56 00	114 60	129 00	105 75	98 25	156 00	157 25	192 50	95 00	82 00	71 75	38 00	1,296 10
Rochester Police	612 00	567 00	477 50	466 75	474 00	554 75	496 00	615 25	636 75	635 50	712 00	559 75	6,806 26
Rome City	18 00	27 00	30 00	30 00	20 00	30 00	45 00	50 00	60 00	60 00	50 00	65 00	475 00
Syracuse Special Sessions	1,423 25	1,308 00	1,132 45	946 66	818 50	1,152 07	918 82	1,107 75	1,356 39	1,256 64	1,186 95	1,046 50	13,650 98
Utica City	65 25	76 25	59 50	81 00	111 00	87 50	99 00	111 00	53 50	97 00	119 00	126 00	1,089 00
Watertown City	37 00	30 00	40 00	.....	.....	.....	.....	.....	.....	.....	.....	.....	107 00
Yonkers City	730 75	671 00	635 68	621 00	669 50	781 50	749 16	900 65	864 06	837 25	855 50	722 74	9,028 77
Total for cities	\$7,028 16	\$6,853 07	\$6,456 44	\$6,336 12	\$5,769 80	\$6,994 77	\$6,299 05	\$7,208 62	\$7,711 14	\$7,250 21	\$8,392 11	\$7,858 22	\$84,757 71
TOWNS AND VILLAGES IN —													
Cayuga county	\$15 00	\$23 00	\$30 00	\$30 00	.....	\$29 00	\$20 00	\$47 00	\$24 75	\$38 00	\$37 00	\$15 00	\$288 75
Cortland county	36 00	27 00	37 50	26 50	16 50	29 50	57 00	75 00	77 57	55 13	65 00	86 50	589 20
Dutchess county	.....	.....	15 00	33 00	33 00	22 00	26 00	10 00	13 00	25 00	19 00	19 00	315 00
Lewis county	.....	.....	.....	19 00	.....	29 00	51 00	.....	29 00	61 50	.....	.....	180 50
Oneida county	118 00	99 50	140 00	121 00	98 00	119 00	139 50	93 00	85 00	87 50	72 00	99 50	1,262 00
St. Johnsville	\$31 75	\$22 00	\$20 00	\$23 00	\$20 00	\$30 00	\$21 00	\$6 00	\$10 00	\$15 00	\$18 00	\$19 00	\$325 75

TABLE 7c — MONEY COLLECTED FROM PROBATIONERS FOR SUPPORT OF FAMILIES — (Concluded)

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
TOWNS													
Cattaraugus county, town of Dayton				\$11 00	\$10 00	\$3 00			\$14 50	\$39 52	\$25 80		\$23 00
Cheungo county, town of New Berlin				4 00		14 00	\$31 50	\$35 00	25 50	\$7 50	30 00	\$23 00	\$0 92
Lodiware county, town of Sidney													190 50
Total for towns and villages	\$200 75	\$171 50	\$242 50	\$266 50	\$177 50	\$264 50	\$336 00	\$206 00	\$379 42	\$339 18	\$257 80	\$262 00	\$3,065 92
CITIES													
	\$226 50	\$115 00	\$47 10	\$38 00	\$38 95	\$33 70	\$39 50	\$36 70				\$284 00	\$277 85
	654 50	756 50	500 00	522 00	505 00	681 10	599 00	803 00	\$12 00	95 00	745 00	1,044 75	84 00
	12 00	16 00	16 00	18 00	4 00	12 00	16 00	12 00	8 00	16 00	16 00	16 00	32 00
	26 00	10 00	41 00	360 00	50 00	39 00	30 00	25 00	36 00	30 00	28 00	45 00	186 00
	21 50	20 50	23 50	23 00	17 02	35 50	39 00	82 00	44 50	49 00	33 00	23 00	955 50
	86 00	38 00	103 00	91 00	78 00	96 00	83 20	48 50	44 00	59 50	116 50	131 75	623 47
				5 00	20 00	20 50	25 00	77 00	11 00	106 00	71 00	154 00	1,400 00
	61 00	45 00	85 00	105 00	31 00		56 50	44 00	51 00	50 00	52 00	27 00	657 00
	16 00					24 00	101 00	88 00	179 00	179 00	83 00	184 00	304 00
	98 00									6 00	70 00		967 85
	5 00									6 50	4 50		2 00
		4 50		1 50	4 00	2 00			6 00				16 00
	15 00	12 00	12 00	15 00	15 00	12 00							355 00
													5 00
													85 00
													18 50
													17 50
													81 00
Total for Supreme and county courts	\$1,021 50	\$967 50	\$916 50	\$1,075 50	\$902 97	\$965 30	\$1,084 50	\$1,077 20	\$1,920 50	\$1,430 10	\$1,962 25	\$1,851 50	\$15,175 52
Grand total	\$3,850 41	\$7,992 07	\$7,615 54	\$7,570 12	\$6,850 27	\$8,224 57	\$7,719 55	\$8,551 82	\$9,911 06	\$9,019 45	\$10,612 16	\$9,971 72	\$102,988 85

TABLE 7d — TOTAL MONEY COLLECTED FROM PROBATIONERS

	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Total
Fines.....	\$1,710 88	\$1,198 72	\$1,668 85	\$1,330 05	\$1,268 95	\$1,190 00	\$1,169 60	\$2,470 00	\$1,867 65	\$1,111 35	\$1,442 75	\$2,169 73	\$18,508 23
Restitution and reparation.....	1,621 04	1,443 55	3,079 87	4,445 60	1,524 29	1,767 26	1,615 27	2,171 86	3,560 25	1,652 47	2,342 19	2,562 09	27,815 74
Support of families.....	8,850 41	7,993 07	7,615 54	7,670 13	6,850 27	8,224 57	7,719 65	8,551 82	9,911 06	9,019 46	10,612 16	9,971 72	102,988 25
Total.....	\$12,182 33	\$10,634 34	\$12,364 26	\$13,445 77	\$9,643 51	\$11,181 83	\$10,504 52	\$13,193 68	\$15,338 96	\$11,783 28	\$14,397 10	\$14,733 54	\$149,403 12

TABLE 7e — MONEY PAID DIRECT TO BENEFICIARIES UNDER COURT ORDERS

COURTS	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	August	September	Total
CITIES													
Amsterdam Recorder's	\$68 40	\$44 50				\$119 00	\$81 00	\$81 00	\$82 08	\$48 00	\$40 50	\$57 00	\$615 45
Auburn Recorder's	8,364 31	8,319 82	\$7,907 22	\$7,376 96	\$8,925 52	6,227 53	6,810 25	7,300 67	9,010 08	9,212 52	9,402 80	7,590 88	284 00
		40 00	40 00		76 00	96 00				36 00	48 00		96,228 05
	144 10	96 28	172 06	122 00	209 80	102 00	100 00	119 00	27 29	39 84	17 26	19 75	276 00
	117 00	104 00	124 44	80 00	103 00	72 00	183 00	180 00	195 00	267 07	240 32	298 00	104 14
						28 00	46 00	47 52	126 00	130 00	206 00	209 00	2,109 52
										206 05	306 99	325 00	1,715 44
													1,139 94
Towns and Villages													
Albany				2,000 40	3,888 00	3,726 70	3,791 84	3,213 50	3,121 00	3,120 80	2,531 35	4,484 00	30,657 39
Albany	18 00	37 00	55 00	53 80	27 00	446 80	24 80	48 00	98 00	90 00	89 00	192 00	1,203 80
Albany			8 00	12 00						76 80		2 50	20 80
Albany				4 50									79 00
Albany							24 50	26 00					4 50
Albany			321 42	343 50	361 50	426 16	504 25	640 75	720 75	840 20	960 50	940 25	5,958 28
Albany	44 00	59 50	79 00	96 00	45 00	73 00	66 70	74 00	141 00	63 50	43 00	26 00	810 70
Albany	100 00	110 00	120 00	150 00	175 00	185 00	190 00	330 00	377 50	440 00	660 00	763 00	3,696 50
Towns and Villages outside of New York City	\$10,342 81	\$8,773 90	\$8,775 13	\$8,370 95	\$6,910 82	\$7,269 38	\$8,076 70	\$8,846 94	\$10,856 67	\$11,560 26	\$12,096 17	\$10,175 27	\$111,985 02
Towns and Villages in New York City	\$18 00	\$37 00	\$66 00	\$3,064 90	\$3,710 00	\$4,176 20	\$3,826 34	\$3,266 50	\$3,219 60	\$3,209 50	\$2,610 85	\$4,678 00	\$31,880 89
Towns and Villages in New York City	\$10,360 81	\$8,810 90	\$8,841 13	\$11,435 85	\$10,620 82	\$11,445 58	\$11,833 04	\$12,113 44	\$14,076 27	\$14,760 78	\$14,707 02	\$14,531 27	\$143,865 91
Towns and Villages in New York City													
Cayuga county			\$26 00		\$12 00		\$36 00	\$26 00			\$79 05	\$66 00	\$12 00
Cortland county			18 40	20 00	16 00				\$15 00	\$9 00	8 00	15 50	242 06
Dutchess county	\$16 00	\$16 00						12 00					181 53
Fulton county		28 33			50 00								40 23
Lewis county													50 00
Towns and Villages outside of New York City	\$16 00	\$44 33	\$23 00	\$20 00	\$78 00		\$36 80	\$43 00	\$15 00	\$9 00	\$37 05	\$71 50	\$476 28

Saratoga and County Courts	\$1,300 71	\$911 75	\$297 00	\$653 17	\$734 33	\$1,028 78	\$976 92	\$1,138 23	\$1,083 85	\$1,024 50	\$1,414 04	\$1,262 02	\$297 00
Cayuga Supreme and County	30 00	20 00	940 46			63 50							12,553 40
Erle Supreme and County			20 00										63 50
Jefferson Supreme and County													25 00
Oneida Supreme and County				25 00									
Queens County													
Total for Supreme and county courts	\$1,410 71	\$931 75	\$1,257 46	\$678 17	\$734 33	\$1,091 28	\$976 92	\$1,138 23	\$1,083 85	\$1,024 50	\$1,414 04	\$1,262 02	\$12,997 90
Grand total	\$11,787 53	\$9,786 93	\$10,150 59	\$12,134 02	\$11,433 14	\$12,536 81	\$12,845 96	\$13,294 77	\$15,174 12	\$15,803 28	\$16,208 71	\$16,184 79	\$157,340 69

APPENDIX B

**STATISTICS OF PROBATION OFFICERS FOR YEAR
ENDING SEPTEMBER 30, 1915**

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STATISTICS OF PROBATION OFFICERS

COURTS	PROBATION OFFICERS DISCHARGING DUTIES DURING YEAR				PROBATION OFFICERS APPOINTED DURING YEAR		
	Salaried from public funds	Detailed from other branches of public service	Volunteers	Total	To fill new publicly salaried positions	To succeed other publicly salaried officers	As volunteers
CITIES							
Albany Police.....	1	.....	1	2	.....	.....	.....
Amsterdam Recorder's.....	1	.....	.....	1	.....	.....	.....
Auburn Recorder's.....	1	.....	.....	1	.....	.....	.....
Batavia Police.....	.....	.....	1	1	.....	.....	.....
Beacon City.....	.....	.....	1	1	.....	.....	.....
Binghamton City.....	1	.....	.....	1	.....	.....	.....
Buffalo Children's.....	4	1	15	20	.....	.....	.....
Buffalo City.....	9	1	34	44	4	.....	6
Cohoes Recorder's.....	.....	.....	1	1	.....	.....	.....
Corning City.....	.....	.....	1	1	.....	.....	.....
Elmira Recorder's.....	.....	.....	1	1	.....	.....	1
Gloversville Recorder's.....	.....	.....	1	1	.....	.....	1
Hudson City.....	.....	.....	1	1	.....	.....	.....
Ithaca City.....	1	.....	.....	1	1	.....	.....
Jamestown Police.....	1	.....	.....	1	.....	.....	.....
Kingston Recorder's.....	1	.....	.....	1	.....	1	.....
Lackawanna City.....	1	.....	.....	1	.....	.....	.....
Mount Vernon City.....	1	.....	.....	1	.....	.....	.....
Newburgh Recorder's.....	1	.....	.....	1	1	.....	.....
New Rochelle City.....	.....	.....	3	3	.....	.....	2
New York City Board of Magistrates, 1st Div'n.....	22	.....	.....	22	1	.....	.....
New York City Board of Magistrates, 2d Div'n.....	22	.....	.....	22	.....	1	.....
New York City Special Sessions, Manhattan.....	11	.....	.....	11	1	.....	.....
New York City Special Sessions, Brooklyn.....	4	.....	.....	4	.....	.....	.....
New York City Special Sessions, Bronx.....	1	.....	.....	1	.....	.....	.....
New York City Children's, New York county.....	19	.....	.....	19	1	1	.....
New York City Children's, Kings county.....	10	.....	.....	10	2	1	.....
New York City Children's, Queens county.....	4	.....	2	6	1	.....	.....
New York City Children's, Richmond county.....	3	.....	.....	3	.....	.....	.....
New York City Children's, Bronx county.....	4	.....	.....	4	.....	.....	.....
Niagara Falls Police.....	.....	.....	1	1	.....	.....	.....
Norwich Police.....	.....	.....	1	1	.....	.....	.....
Poughkeepsie City.....	1	.....	.....	1	.....	.....	.....
Rensselaer City.....	.....	.....	1	1	.....	.....	.....
Rochester Police.....	2	.....	.....	2	.....	.....	.....

	9	2	119	265	12	4	8
Rome City Police	2						12
Schenectady Police							3
Syracuse Special Sessions							1
Troy City	27		40	47			20
Utica City	3		1	3			3
Watertown City				3			20
Watervliet City			4	6			3
Yonkers City	134	2	119	265	12	4	8
Total for cities							
VILLAGES							
Attica			3	3			1
Dobbs Ferry			1	1			1
Elmira Heights			1	1			1
Falconer			1	1			1
Goshen			1	1			1
Green Island			1	1			1
Hamburg			1	1			1
Hosick Falls			1	1			1
Lyons			1	1			1
Malone			1	1			1
Manlius			1	1			1
Mineola			1	1			1
Owego			1	1			1
Pann Yan			1	1			1
Perry			1	1			1
Pleasantville			1	1			1
Port Chester			1	1			1
Potsdam			1	1			1
Rye			1	1			1
St. Johnsville			1	1			1
Southampton			1	1			1
South Nyack			1	1			1
Spring Valley			1	1			1
Suffern			1	1			1
Tuckahoe			1	1			1
Walton			1	1			1
Waverly			1	1			1
Total for villages			37	37			20
Albany county, town							1
Allegany county, town							1
Cattaraugus county,							1
Cattaraugus county,							1
Cattaraugus county,							1
Chester county, to							1
Chester county, to							1

Position	Number of positions held by officers who serve in more than one court	Net total of individuals serving as probation officers
Total for Supreme and county courts	43	106
Grand total	43	106

APPENDIX C

PROCEEDINGS OF THE FIFTH SERIES OF NEW YORK CITY CON- FERENCES ON PROBATION, HELD ON APRIL TWENTY-SECOND TO MAY SEVENTH, NINETEEN HUNDRED AND FIFTEEN

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INTRODUCTION

The fifth annual series of New York City Conferences on probation was held under the auspices of the State Probation Commission, beginning on April 22, 1915, and concluded on May 7, 1915. Six evening conferences were held in the City Hall. The meetings were well attended by the probation officers from all the courts of the city; also by a number of the judges and other persons interested in probation work. At the first and last sessions, this year for the first time, judges from the higher courts of the city appeared and delivered admirable addresses. Greater co-operation in arranging the meetings was brought about by the selection of a Committee of Arrangements composed of representative probation officers from the main divisions of the courts. This committee met with representatives of the State Probation Commission and agreed upon a program. The addresses presented were extremely practical and the discussion following was very animated and helpful. The addresses and discussions in part follow.

The Commission believes that these meetings are of great value to the probation officers of New York City, affording practically the only opportunity of the year for the officers from all courts to meet and discuss exclusively the problems of their common work. Co-operation and mutual acquaintance are promoted by these meetings as in no other way. Unusual circumstances will make it inadvisable to hold the conferences in 1916, but the Commission intends to resume them in 1917 and will seek the co-operation of the probation officers and the judges in making arrangements therefor.

PROGRAM

THURSDAY, APRIL 22

GENERAL MEETING

Remarks by the Chairman

Paul Fuller, former Dean of Fordham University Law School.

How the Probation Officer May Become a More Effective Aid to the Court

Judge Edward Swann, of the Court of General Sessions.

Unemployment and Its Relation to Crime, Delinquency and Probation

Walter L. Sears, Superintendent, New York City Public Employment Bureau.

General discussion opened by probation officers: Alexander H. Kaminsky, Court of General Sessions; Theodore C. Trieper, Court of Special Sessions, Brooklyn; John J. Shanahan, Court of Special Sessions, Queens.

FRIDAY, APRIL 23

ROUND-TABLE DISCUSSION

Probationary Treatment of Drink, Drug and Other Injurious Habits

Sub-topics:

1. How can we best ascertain what an offender's real habits are?
2. How much do we really know of the habits and characters of our probationers?
3. How can we best keep informed as to our probationers' progress?
4. What causes the habit; how can we get at the causes and remove them?

5. Treatment that has most often succeeded; how can it be adapted to differing individuals?

6. What methods have brought about failures in certain cases?

7. Cases in which the co-operation of family, relatives, friends or other individuals has been secured and has been effective.

8. Cases in which the co-operation of societies and institutions has been secured and has been effective.

9. How much evidence is there of mental abnormality or deficiency?

10. What about liquor or drug cures?

11. When is hospital or institutional treatment necessary?

Leader: Timothy J. Shea, Agent, Brooklyn Society for the Prevention of Cruelty to Children.

Speaker: Dr. Charles F. Stokes, Medical Director of the Board of Inebriety, New York City.

Discussion opened by probation officers: Archibald J. McKinny, Magistrates' Courts, Second Division; George A. Daly, Court of Special Sessions, Bronx; George D. DeGennaro, Court of Special Sessions, Brooklyn; Patrick O'Reilley, Magistrates' Courts, Second Division.

THURSDAY, APRIL 29

ROUND-TABLE DISCUSSION

Boy Problems

Sub-topics:

1. Truancy — the relation of the probation officer to the schools.

2. Employment — methods of securing employment for boys; what employments are suitable; what should be discouraged; what can the probation officer do in the field of vocational guidance?

3. Recreation — beneficial and harmful — the supervision of school children after school and in the evening. What can be done about playing in the streets?

4. What can be done for school boys in the summer vacation?

5. What can be done with boys who steal?

6. The treatment of the sub-normal boy.

7. How can the co-operation of father, mother, other relatives and friends be best obtained?

8. How much do we know of the boy's environment, associates, interests; how much should we know; how can we best help in the choice of these?

Leader: Bernard J. Fagan, Probation-officer-in-charge, Children's Court, Manhattan.

Speaker: Dr. John W. Davis, Director, Bureau of Attendance, New York City.

Discussion opened by probation officers: Joseph S. Medler, Children's Court, Brooklyn; D. F. Ryan, Children's Court, Bronx; Morris Marcus, Children's Court, Manhattan; Patrick Mallon, Children's Court, Brooklyn.

FRIDAY, APRIL 30

ROUND-TABLE DISCUSSION

Work with Women and Girls

Sub-topics:

1. Employment — methods of securing it. What employments are suitable; which should be discouraged?
2. Recreation — beneficial and harmful.
3. The protection of girls on the streets and in public places.
4. Holding parents to their responsibility in improper guardianship cases.
5. Girls who have comfortable and respectable homes who nevertheless go wrong.
6. The treatment of the sub-normal girl.
7. How can the co-operation of father, mother, other relatives and friends be best obtained?
8. How much do we know of the girl's environment, associates and interests; how much should we know; how can we help in the choice of these?
9. Methods which have been found successful in reforming or improving the immoral girl or woman.

Leader: Mrs. Mortimer Menken, President, Sisterhood of the Spanish and Portuguese Synagogue.

Discussion opened by probation officers: Mrs. Julia M. O'Connor, Children's Court, Manhattan; Mrs. E. A. Hardoncourt, Magistrates' Courts, Second Division.

THURSDAY, MAY 6

ROUND-TABLE DISCUSSION

Family Problems

Sub-topics:

1. Methods which have succeeded best in dealing with and influencing the non-supporting husband.
2. Cases which have failed and the reasons.
3. Finding the cause of family disagreement. From whom should information be sought?
4. Reconciliations between husband and wife; when should they be sought; how can they be brought about?
5. How often and when should the probation officer visit the homes of probationers and how may such visits be made of the greatest practical value?
6. How can the probation officer help and advise regarding the management of household affairs; the expenditure of the family income?
7. How can the probation officer aid in making the home more attractive?
8. Under what circumstances and with what precautions should the probation officer seek charitable aid for the family?
9. How can we help parents to exercise their responsibilities toward their children?

Leader: Frank L. Graves, Magistrates' Courts, Second Division.

Speaker: Francis McLean, Secretary, American Association of Societies for the Organization of Charity.

Discussion by probation officers: William J. McElroy, Magistrates' Courts, First Division; Mrs. Sallie A. Heineman, Children's Court, the Bronx; Daniel J. White, Children's Court, Manhattan; Miss Anne V. Roome, Children's Court, Richmond; Lionel Julian, Magistrates' Courts, Second Division.

FRIDAY, MAY 7

GENERAL MEETING

Needs and Hindrances in the Development of Effective Probation Work

Remarks by the Chairman.

Charles L. Chute, Secretary of the State Probation Commission.
Addresses.

Judge Louis D. Gibbs, County Court of Bronx; Arthur W. Towne, Superintendent, Brooklyn Society for the Prevention of Cruelty to Children.

General Discussion.

(The following topics as bearing upon the general topic of the evening have been suggested by various probation officers for discussion. The probation officers are urged to bring up for discussion other matters in relation to their work which may have caused difficulty. A free and helpful discussion is anticipated.)

Suggested Topics:

1. The part taken by the probation officer in the right selection of probation cases.
2. The distribution of cases among officers serving in the same court.
3. Office organization; the centralized plan.
4. The relation of probation officers to volunteer workers.
5. How may the reporting of probationers be made most valuable?
6. The length of probation periods.
7. Treatment of violations of probation. When should a warrant be asked from the court? When should commitment be recommended?
8. Judicial commitments of the feeble-minded.
9. Are any changes in the laws governing probation desirable?
10. Meetings and organizations of probation officers.
11. How can the State Probation Commission be of more assistance to the probation officers in New York City?

PROCEEDINGS OF THE FIFTH SERIES OF NEW YORK CITY CONFERENCES ON PROBATION, HELD IN THE CITY HALL

FIRST SESSION

Thursday Evening, April 22, 1915

MR. CHARLES L. CHUTE, SECRETARY OF THE STATE PROBATION COMMISSION: Our first speaker and the chairman of the evening is Dean Paul Fuller, whom many of you will recognize as an old friend of probation work. I will now turn the meeting over to him.

HON. PAUL FULLER, FORMER DEAN, FORDHAM UNIVERSITY LAW SCHOOL: This new committee on arrangements, to which the Probation Commission has turned over the meeting, did me a great honor by calling me here. I am sensible that this is a recognition of the sympathy I have in this movement and I am well aware I have been able to give it little else. I can find nothing to say except to assure you that probation has already justified itself. In its very infancy it has shown its power for good; it has survived that perilous, seething period of experiment, and it has come to stay. How rapidly it will grow, how efficient it will become, how many it will rescue from the wilderness of wrong-doing into which one false step may plunge them, must depend largely upon the entire cooperation of the probation officer with the judge and of the judge with the probation officer. I have no fear of the latter; sometimes I have a little fear of the former. You have the best assurance of this cooperation and interest in the presence here to-night of Judge Swann, whose long experience on the bench has taught him to temper judgment with mercy without overturning the scales of justice.

HOW THE PROBATION OFFICER MAY BECOME A MORE EFFECTIVE AID TO THE COURT

HON. EDWARD SWANN, JUDGE OF THE COURT OF GENERAL SESSIONS: I will address myself to-night more to probation as it has reference to the adult offender than to probation with reference to the juvenile delinquent. While the methods probably

would dovetail very much one within the other, nevertheless the subject is too vast and important for treatment in one night.

Probation has three branches, or if Caesar were to express it, he would say, all probation is divided into three parts. The first part is the most important, and that is the *preliminary investigation*. The preliminary investigation is for the purpose of making a diagnosis of the case, and therein lies the future success or failure of that particular parole. A physician has to make inquiries, in fact, cross-examine his patient in order to discover and make a diagnosis of the disease. The probationer turned over to you and put in your hands is morally diseased. Very frequently he has committed crime more than once, and has been convicted at least once, but that does not always mean he is a first offender. It seems an opinion prevails among the youth of the city that they are entitled to commit at least one crime and not go to prison. Scarcely a week passes but I receive letters from young men and women who are pleased to call themselves "first offenders," but upon investigation, I find they are not first offenders and that they have been for a series of months, perhaps several years, committing crime, but it is the first time they have been convicted. That does not constitute a first offender in my opinion and I never proceed on that theory. We might permit one who has fallen through sudden temptation to step aside twice, but certainly not a series of times.

When the matter is turned over to the probation officer, the first thing is a preliminary examination. You, as it were, might be styled the physician to the diseased morals of the young man. It is necessary to make a very thorough investigation of his character, past history, and past performances, and if you fail in that regard, then your future work is apt to be a failure. If it is a hit or miss style you apply to the preliminary investigation, you render very little service to the judge. You will remember I have been requested to address this audience with reference to the greater efficiency of the probation officer with reference to the good he may perform for the judge's sake and as an adjunct to that extent of the bench.

I find that some probation officers content themselves, and I am going to speak plainly, by only going to the city prison and asking

the prisoner questions. I could take a rubber stamp and give him his answer. That doesn't aid me at all. I do not expect a convicted prisoner to tell the truth until you have submitted him to a thorough cross-examination, and you have to look up many facts and you are not to stop by taking his word for it. You will find the police officer has made a study of the case and it will surprise you how much he knows about the defendant if you would only ask him. The officer will not volunteer the information, but if interrogated on the subject he will tell you more than you will find from the defendant himself.

I find many probation officers content themselves also with asking the intimate friends of the prisoner. There is just one thing the intimate friend won't tell you and that is anything derogatory to the defendant. The fact is he will tell you white lies and will cover everything up you ought to report to the judge. By such a course you place the judge in a very embarrassing position. I am not going to cite instances, but I have a stack of probation officers' reports and I should like to show those probation officers results of some investigations I have made myself. I have before my mind's eye a very recent case where the report of the probation officer was very flattering to the defendant. That fellow had been convicted three times and served three sentences in State prison. I had a foreboding; I was very suspicious myself in regard to the flattering report, but the report was nothing more or less than what the defendant had said. The report didn't purport to be anything more than that, so you see it is absolutely useless to make a diagnosis of the case with reference only to what the defendant himself tells you. If the defendant is young an excellent method under ordinary circumstances is to get the first name of the mother and father and apply to the Children's Society and see what they will have to say.

Crime is progressive. We must not flatter ourselves by thinking that a person who commits a felony is a first offender. We must not blind ourselves and blink the facts, but we had better look the facts in the face. Even if he is a bad young fellow, there may be some hope, but we want to know the facts, and if he can deceive you in making a good report, you cannot properly aid the court; you have made a false diagnosis and the result of that probation will be a failure.

There is one other matter in regard to the preliminary investigation I want to call to your attention. I am an advocate of a paid probation system. We are served in the Court of General Sessions by volunteer probation officers. They do excellent work. We have no right to expect them to do as much as they do for us. They are not paid; there is no appropriation by the city even to pay their disbursements. The charitable societies pay that, and it seems right to me that the great city of New York ought to appropriate a reasonable amount for the purpose of making these preliminary investigations.

Many persons suggest that even the preliminary investigation ought to be on religious lines, but I do not think that conforms with the best American tradition. It is quite immaterial to me who makes the investigation, provided it is properly done, and I would no more think of suggesting that one of the same faith of the defendant make the preliminary investigation than I would suggest that a jury of the same political faith should try the defendant, or that a policeman of the same faith should arrest the defendant. The investigation should be made by paid officers of the county. The laborer is worthy of his hire, and we want those who are skilled in doing that kind of work to be paid a living wage, and we want them to have proper assistants.

Now, the next function of the probation officer is the supervision of the probationer after the sentence is suspended, and therein, it seems to me, the religious societies come in to perform extremely valuable services. After the investigation is made and after it has been found from a proper diagnosis that it is a proper case for probation and suspended sentence, it seems to me there is nothing that will better guide the young man back to the proper mode of life than religious instruction and training, and I would advocate a statute to provide that in case of parole a defendant should be paroled in the custody of a probation officer of the same religious faith.

When we suspend sentence, it is to send the young man away from court, and it is best if we can send him to proper influences and back to his childhood recollections.

Here we have the second element and function of the probation officer, and with a proper diagnosis, with the previous study of

the character, the previous history and past performances of the individual, the probation officer is in a better condition to follow him up and keep tabs on him, and if possible where he may be slipping, to give him a helping hand. No one would be more ready to commend you for it than I would in any effort you should make, and it is your duty to do so and it is scarcely proper for me to speak of your duty when you are rendering so much without pay. We are burdening the willing horse too much, but nevertheless it seems to be your wish and pleasure to do good, and so far as you seem to derive satisfaction from it I commend you most heartily for the efforts you are making in the reclamation and conservation of the youth of the city.

The third function of the probation officer is very important to me. As a citizen, the second element is equally important, but as a judge the first and third are the most important. The third is the report of dereliction of duty on the part of the probationer. It is very difficult for you to do that, for there isn't a probation officer in the Court of General Sessions that does not have a regiment of probationers under his supposed supervision. How in the world he can adequately supervise so many young men with any hope of success, I cannot understand; it is impossible for you to do it, and we ought to have a paid system of probation officers supplemented by the voluntary worker. That is the ideal method of probation. That does not make us rely entirely upon the volunteer. Those who are devoting their lives to it ought to be paid, and so the societies need feel no uneasiness in regard to it, those societies who have been so generous in their money. I think you will find there isn't a judge in New York city that won't thoroughly agree with you upon this point that we would divide up the probation officers into so many of one faith and so many of another, etc., so each of the religious faiths will be represented. That could be made a condition precedent in applying to the Civil Service Commission for an examination for probation officers. We would specify that as one of the qualifications. We would specify so many of one faith and so many of another, and they would have to comply with these conditions. That is done in other courts and in other parts of the State. It doesn't seem to be subject to any objection whatever, especially to any one who comprehends the duties and functions of the probation officer.

There is now the question of obtaining employment for the probationer. There is a certain glamour in regard to crime. If a young man has committed an offense, sometimes he can get a job quicker than if he had remained honest. It is a sad commentary on how we regard the poor and struggling fellow trying to live a decent life, denying himself and family rather than commit crime, when if he does step aside, he, under present conditions, seems to be able to get a job much quicker than before. The fact is that people come around the court house and sometimes say if I have a fellow who has stepped aside they will "give him a chance." I ask, "Why don't you 'give a chance' to some honest fellow who hasn't committed a crime?" Is it the glamour of crime that makes him ask that I parole some one in order that he may give him a job? I should like to know the psychology of the question.

There is one other element of probation about which I want to speak. We have a system of indeterminate sentence that is not what it's framers intended it to be. It is a figment of the brain merely, something on the statute books. It sounds all right, but it isn't. For instance, yesterday under the law I had to sentence a man to not less than two years nor more than twenty. That sounds severe and probably appalls those who are not accustomed to hearing sentences. That seems the greater part of the man's life, but don't you worry yourself at all about the twenty years part of the sentence. That part is mere words. You can find it upon the record, but that is about the end of it. He will serve two years and come out at the end of the two years. The twenty years part of the sentence has no more effect than if I had closed my mouth after I said two. The law is nullified by a custom of the parole board, which seems to be invariable, at the end of two years he will come out automatically unless he has misbehaved in prison. Under the present conditions, who is going to misbehave in prison? Unless he is not of sound mind he will perform the functions there very well and at the end of the two years will come out. Then he is supposed to be on parole, but is he? I don't think he is. Nominally he is paroled to some organization, we will say the Prison Association. I can tell the Prison Association a great deal more about some of their probationers than they know themselves. The former prisoner is not supposed even to report more than one year of that remaining eighteen, and then

no man knows whither the probationers go. Certainly the parole officer does not know. I do not like to use such an expression, but it is a farce. Simply a farce — the indeterminate sentence, and yet if you speak to any good citizen in regard to it, he would say: "A splendid thing, because it gives opportunity and hope to the prisoner; it makes him know that the period of imprisonment depends upon his own good conduct." If he does anything except offend the warden he will come out in two years. The law should be changed so that the judge who pronounces a sentence of not less than two or more than twenty years shall mean it. We want a statute to mean what it says. If he should come out in two years, all well and good, but I want him to be on parole for the balance of the term that the judge must sentence him for. I want it possible to return him for another period if he steps aside.

Last week I found a probationer rooming with two notorious burglars. They had in the room every conceivable device for blowing safes. My probationer was in that room and was handed over to me by the police, not by the probationer officer. The probation officer did not know where he was, but the police did. The two burglars were arrested in the act of blowing a safe and my probationer was acting as "lookout," but he satisfied himself he took no part in the crime and he was amazed to know he had been guilty of any dereliction whatever because he was to receive only twenty-five dollars for being the "lookout." The safe blowers also were supposed to be on parole from State prison. They had received a long sentence, but had been released after serving a short term, and nothing can be done so far as the unserved remainder of the sentence is concerned. My suggestion is that the law ought to be amended so that instead of allowing offenders to get their absolute release after the expiration of the short term they shall be put on parole for the balance of their time, so that if they are found with safe blowers during the period they may be immediately returned.

The mentality of the average criminal is abnormal. He acts sometimes as if he were dazed; did not appreciate what was done. He should receive a shock. The talking that the probation officer gives often fails to shock him at all. If when he enters State prison he receives such instructions as this, "You are more sinned

against than sinning; you are the product of a defective civilization; society has sinned against you," how much good is that going to do him? A thorough shaking up is what he wants, an arousing of the latent mentality. The moral sense has to be aroused. We must not treat them in that dovelike fashion, because it does not do any good. They should be treated firmly, humanely. Too much cannot be done to improve their moral and physical condition. But what is the result of present methods? Can any one say that crime is decreasing? We were never so hard worked as we are to-day. I never in all my life worked as hard as in March and our calendar is crowding upon us.

Sometimes I must be a little insistent with the probation officer and ask for further reports. I write sometimes to every one of the principal cities in the Union myself. I send photographs of defendants where I think that the probation officer is mistaken. Never fail to co-operate with the detective bureau of police headquarters. They want to co-operate with you; they want to give you all the information possible. My suggestion to them has been to have a sort of "Directory of Crooks." Probationers are not analyzed. The average one borders very near the crook; he is on the border line. We should have a directory of crooks, a "Who's Who in the Underworld."

Remember every time you make an erroneous diagnosis and the judge makes a mistake, we not only do an injustice to the individual probationer, but we do an injustice to probation itself.

UNEMPLOYMENT AND ITS RELATION TO CRIME, DELINQUENCY AND PROBATION

MR. WALTER L. SEARS, SUPERINTENDENT OF THE CITY OF NEW YORK PUBLIC EMPLOYMENT BUREAU: "Unemployment and Its Relation to Crime, Delinquency and Probation," is a particularly appropriate subject for discussion at the present time. Non-employment or idleness is largely responsible for crime. Court records in every large city show us that there is more crime committed during periods of business and industrial depression than during prosperous or even normal times, also that hoodlumism, vagrancy, and the use of drugs, especially cocaine, is on the increase. Idleness begets mischief, and its ultimate result is

crime. When the people are busy in a productive capacity, they have little time to think of crime.

For more than twenty years I have had an opportunity to study the problem of the unemployed at close range. The principal causes of unemployment are:

Strikes or lockouts, lack of work or material, consolidations, repairs, stock-taking, sickness, accidents, unfavorable weather, failures, removals, fire, adoption of labor-saving devices.

There is too much leniency somewhere, either at home or in the school, which results in the disobedient, unruly and disrespectful child. The average parent of to-day does not know how to rear children. Parents expect society and the public authorities to ethically and industrially educate and train the child,—they are too often indifferent as to the future welfare of their offspring. The use of the telephone, gas, electricity, steam-heat, janitor service, laundries, lunch-rooms, restaurants, hotels, delicatessen stores, bake-shops, conveyances and other modern inventions, has lessened the opportunity for the industrial training of the boy and girl at home. Formerly, many duties were performed in the home. At the present time, the boy or girl works for somebody else performing similar duties for pay, and then we complain of the increased cost of living.

Why is it that such a large percentage of the army of tramps and vagrants is recruited from the American born? In my judgment, it is the education, training, environment, and the fault of modern society as a whole that is responsible for this condition. Employers are largely to blame for the number of misfits mainly because they do not exercise care in the selection of their help, and also because they do not have a proper understanding with the newcomer, especially boys and girls, as to their future. As a result, these young people are shifting about from place to place, not remaining anywhere for a great length of time. This would be obviated to a certain extent if an understanding was had between both parties, and especially if the help was selected with a view to its particular fitness for the work to be performed. The employer is too much concerned about the commercial end of the business, and the office often does the hiring, whereas if a com-

petent employment manager did the hiring, the percentage of "turn-over" would be much less, with a corresponding reduction in the operating expenses of the plant. The boy or girl is often put to work knowing little about what his or her future is to be, and after a while they leave, and go through the same experience in the next place. When they reach maturity, they are then too old, or think they are, to commence all over again. This method of handling help by employers or their representatives is largely responsible for the increasing army of misfits; it increases the army of idle men and women from which is recruited the tramps, vagrants and unwilling workers, and promotes crime, delinquency and the number of probation cases.

I believe that it is the duty of organized society, through its representatives, to determine each child's aptitudes and its mental and physical abilities, and then to train him and endeavor to find a suitable place for him. This work is properly a civic function. It can be done, and society would be better off as the result, and the number of misfits would be materially reduced. This policy, judiciously carried out, would lessen the number of delinquents and criminals, and proportionately the amount of work for probation officers.

"Idle land means idle men, and idle men mean poverty, crime and sorrow." Idle men and women drift downward on the stream of life more quickly than working people. Industry increases thrift, morality, love of home, and respect for our laws and civic institutions; while idleness increases the desire to exist with as little effort as possible; subsequently, because of yielding to the temptations to get along without working, a man is brought before the court; first, for some minor offense, and then for a more serious crime. Because of the crowded conditions of our correctional institutions, the police and courts are lenient with first-offense cases. If offenders realize that there is no room for them at the institutions, and the courts will therefore be more lenient with them, we lessen to a certain extent the lawbreakers' respect for our civic institutions. Paroling of prisoners and probation of delinquents and first offenders is often recommended to relieve the community of the expense of caring for the increasing prison population.

Every large city has its share of idle men and women, which may be divided into two classes — temporary and permanent

residents; the former class may be divided into two classes — the tramps, hoboes, vagrants, and professional non-workers, who are simply barnacles on the wheels of progress, and a menace to society; all of this class who are able, should be made to work at the "rock pile" or "farm colony;" the willing worker, who becomes unemployed through no fault of his own, should be assisted to get back to his home town, if possible; the permanent resident, provided he is a worthy employable, should be given every assistance possible. If he is unworthy, the "rock pile" or "farm colony" is the place for him. The unwilling worker is in a sense a parasite. These parasites would soon leave any community if they were confronted with the "rock pile." If he is willing but unable to work, every proper effort should be made to assist him.

Very many of our temporary residents or newcomers, including very many human derelicts and parasites, are attracted to the city as the result of the innumerable inducements, implied or otherwise, held out by our generous public benefactors to accept our hospitality. It must be admitted by every one who has made any study of the question of "relief work," that it is better to have a thorough investigation made of each case for relief, so that only worthy applicants may be assisted, than to have no expert investigation and its result — indiscriminate alms giving. During the past winter, there has been too much indiscriminate alms giving, with the result that we have an army of at least 100,000 unemployed, recruited from all over the country, who must live by some manner or means. These people must live somehow. If they cannot get it honestly, they get it dishonestly, and the producer must bear the expense. The sentiment that "it is better to give alms indiscriminately to ninety-nine unworthy people, than that one worthy applicant should starve," may possess merit, but it seems to me that we should provide ample safeguards around every form of charity, whether public or private, and be exceedingly careful not to do anything which will tend to increase the number of dependents upon society for support.

Every employable, who is willing to work, but who cannot find employment, or who is willing but unable to work, is entitled to every assistance possible from the regularly organized, permanent institutions. The homeless man and woman should be provided for

by organized society. I am strongly in favor of the "farm colony" for the fellow who can, but won't work. He should be placed upon the land where he would be producing something, which would not pauperize or bring him into competition with free labor.

My theory is that a very large percentage of the willing employable unemployed could be placed on the land. We can compel those who are able, but won't work, to go on the land. Many others would go if they were only properly advised by the government and given a little encouragement. Obviously, many people refuse to be exploited by land speculators and promoters, or to have their misfortunes capitalized by mercenaries. There are enough people who would gladly go on the land if given an opportunity, and this would relieve, to a considerable extent, the congested conditions in our larger cities.

"Idle land means idle men, and idle men mean poverty, sorrow and crime." On every hand we hear of schemes for the amelioration of the condition of the unemployed, and while a return to the land is not a new idea by any manner of means, it has not as yet received that serious consideration it deserves from those entrusted with the duty of solving "the problem of unemployment." Every dollar of money expended upon the land would more than repay for the cost of labor, because it would increase in value as the result of tillage and development, and no one could be pauperized by this method.

We should endeavor to adopt some constructive program by which to remedy the conditions of which we complain. You cannot do it all, nor can any one individual or organization. We should make an attempt at least to impress upon society the imperative necessity of doing those things which to our mind will result in the making of the better man, and a respect for our laws and civic institutions.

GENERAL DISCUSSION

MR. ALEXANDER H. KAMINSKY, PROBATION OFFICER, COURT OF GENERAL SESSIONS: When the judge in the Supreme Court or Court of General Sessions suspends sentence upon a prisoner he says to him, "I want you to lead a decent, honest and upright life and the probation officer will take care of you." When the State Board of Parole sits at Sing Sing and has before it the various

men who apply for parole, they say to the prisoner going out, "Go out and sin no more and make good." It sometimes occurs to me that as representatives of society they say this not only for the sake of the prisoner, but because they justly feel that if the prisoner makes good there is much less danger to the rest of society. If that is the case, let us see whether it is not our duty to try to find employment for the fellow that has sinned and give him a start. If it is true that conduct is nine-tenths of life, and if it is true that industry is nine-tenths of conduct, how can you expect a discharged prisoner to conduct himself properly if you deny him the opportunity of being industrious. I believe it is a matter of self-protection as well as only fair and just to give these discharged men an opportunity to make good.

I realize in studying this problem there are generally two problems to be considered, the problem of the discharged prisoner who is but a boy and the older man. If you deal with the man of forty or fifty, it is a question not so much of the kind of job, but of the job where he can get the most money, because he has his responsibilities, he has his family to support and look after beside himself. But when you come to deal with the boy it isn't a question of how much the boy will get, but the opportunity offered for the boy to develop himself.

Having determined upon this fact, that the problems are entirely different, we have set to work in our society and have succeeded in putting through an appropriation for a special man whose work will be mostly with the boys and whose effort in the work will be to put the round club into the round hole, getting a suitable job for the boy, a job where he will be interested, where he will be given an opportunity to use his mind. Just as soon as you get a boy, who is fitted to do a different kind of work, carrying bundles, he will do what many boys do, leave his work and walk off. There isn't any use in doing that sort of thing. You will be spoiling the employers and employees.

The first thing we want our man to do is to study the boy, and once he has made up his mind as to what kind of boy he has, then it is his problem to find a job that will fit. If you can do that, 50 per cent. of your trouble will be solved. Once you get a boy the job which he likes, it is pretty plain sailing, you can give him

all the advice and all the companionship you want, but if he hasn't the right kind of a job he will come back on you just as sure as anything. That is why I feel it is too heavy a task if you put a boy on probation without giving him a fair opportunity of getting a decent job.

MR. THEODORE C. TRIEPER, PROBATION OFFICER, COURT OF SPECIAL SESSIONS, BROOKLYN: I would like to talk about three classes of my probationers. I find that the foreign-born probationer usually gets work the quickest. The next is the probationer born of foreign parentage, and the laziest of the lot is the son of the native parent. I find that the boys we get on probation usually suffer more or less from a fatigue. A book that coincides with my experience is the book by Josephine Goldmark on "Fatigue and Efficiency," a most valuable book that every probation officer should read and be familiar with.

With the probationers I have had, as a rule, the boy wants a certain kind of work; he prefers outdoor work; he wants a certain salary. I tell these boys, "Now, you get any kind of a job that you can, but you get to working." Many of these boys ask for a reference. They have no references; they have had short positions. We find that many of the cases we investigate have been out of employment from two weeks to six months. I say to the listless fellows, "You look here; if you rely on me to get you a position you may get left." I make them get the job themselves.

About two years ago I had a bright Jewish boy on probation who was born in Russia. He was placed on probation for stealing from his employer. He worked in a bakery. A week after, I saw him and he told me he had a job in the Bronx. He came again two weeks after that and told me he had had two other jobs since then. I asked him, "How did you do that; how did you manage to get these jobs?" "I get up at four o'clock; I ride down to the Staats-Zeitung building; I get one of the first issues and pick out the job I like and then I get there by five or half-past five."

You will find that your experience has been the same as mine, that the foreign-born probationer is the one who will take any kind of a job. I have had a boy on probation for three months and after a month of idleness his father put him out. The boy

reported to me. I found him disheveled and unkempt and I procured a home for him in Brooklyn. He stayed there a week and a half and was put out because he disturbed the quiet of the place. He came to me and I got his father to take him back. Then after a week he secured a position earning three dollars a week. He came and said, "I think my job is going to terminate at the end of the week; they are not giving me enough to do in the place." I said, "William, if you give up that job, I am afraid we will have to return you to the judge and get you a position where you get no pay."

I find that the great difficulty of these boys is their fatigue, a condition which is caused oftentimes by the use of cigarettes, by over-indulgence in sexual matters, also by congestion, home-crowding, poor food and such things. I find anybody that wants a job and is not too anxious as to the price and labor they are to perform can easily get it.

MR. JOHN J. SHANAHAN, PROBATION OFFICER, CHILDREN'S COURT: It has been my experience in investigating cases in the juvenile court that over 50 per cent. of the boys between fourteen and sixteen years of age have not worked within three months of the time before being brought to court. They have working papers and they seem to think that these working papers give them a license to loaf, and that they are immune to arrest by the truant officer. The Board of Education should make some rule that would compel a boy to have a job to go to before granting these papers, and the papers should be granted conditional to his holding that position.

A great many boys, of course, secure work as soon as they are given working papers, but they either lose the job or give it up. After three months of loafing and hanging around pool rooms and corners, they arrive at the Children's Court. This is a question for the school authorities to take up.

MISS OLIVE M. JONES, PRINCIPAL, PROBATIONARY SCHOOL: The suggestion is a very pertinent one indeed and one which we have been trying to put into effect for at least five years. When I

first went into the probationary work for the Board of Education,—that probation work being of a preventive character and intended to keep children from coming into court,—about the first thing that came to my attention was the question of the boy who goes out with working papers, and I have been all of five years trying to get the necessary legislation. In the first place, we have a rule standing on the books which says a boy must not leave school until he has a job. We cannot enforce that law because we are met with the question, “How can a boy find a job if going to school? He cannot attend school at the very hours that he must be finding a job.” In the second place, no law is of any use unless some one enforces it, and I do not know of any one who will enforce that law for us. The attendance officers cannot do it. They have all they can do now without taking care of these cases who are no longer the wards of the Board of Education, neither will the police enforce it. I have had many bitter personal experiences in that respect. I have tried to get policemen to arrest those boys and have been met with an absolute refusal on the part of the police unless I could present what would be legal evidence that the boy had committed some crime; that the mere fact that the boy had an employment certificate and was not working was not a crime.

To-morrow there will come up for trial, probably in General Sessions, a boy who became sixteen years of age last Tuesday. He produced his evidence of age on Wednesday and demanded permission to leave school; he was no longer of school age. On Saturday he gathered together a group of four boys in my school and carried them out with him and robbed a candy store of \$500 worth of supplies. Those supplies were received by a small candy shop that instigated the whole crime. No one can help me handle those cases at all, because of this very matter brought up now, and I know that we in the schools would be agreeable indeed for any suggestion or co-operation in getting through an effective law and effective means of enforcing it.

THE CHAIRMAN: Why cannot the Board give a child sufficient holiday to find his place? It seems to me the Board of Education could hold back those papers, have a sort of indeterminate release.

Miss JONES: I find that is an impossibility because the employer will not even consider the boy's application unless he has **that** working certificate to present as a certificate of the right to **go to** work. We had a suggestion which we still hope to be able to **put** into effect, and that is that upon leaving the employment **the** employer will then mail the employment certificate back to **the** school that the boy left when he went to work. Of course, **that** puts the responsibility up to the employer, and whether employers would co-operate with us, we cannot say.

SECOND SESSION

Friday Evening, April 23, 1915

PROBATIONARY TREATMENT OF DRINK, DRUG AND OTHER INJURIOUS HABITS

MR. CHARLES L. CHUTE, SECRETARY, STATE PROBATION COMMISSION: I think all of us here last night felt we would have liked to have had more time for discussion, to get back at the speakers of the evening. The hour, however, was late and it seemed best to postpone the discussion until this evening and the other evenings that follow, when we will have plenty of time for discussion. In fact, we will give up these meetings almost entirely to discussion. We want to have you all speak on this important topic of the evening. We will begin without further introduction, and I will call on Dr. Charles F. Stokes, Medical Director of the Board of Inebriety, to tell you about his work and his experiences in the New York City Farm for Inebriates.

DR. CHARLES F. STOKES: I am very glad to have this opportunity to lay before you what I believe to be an absolutely new, original conception of the whole problem of drug addiction and alcoholic abuse. The literature on this subject is vague, unsatisfactory, unscientific, the treatment impractical, and the results attained are not understood oftentimes by those who employ the treatment.

To begin with, let us consider the human frame from a psychological point of view. As far as I can, I am going to refrain from indulging in anything in the way of technical description. The mind, the brain, is susceptible of all sorts of impressions. What we do with those impressions oftentimes depends on the activities of certain glands which until recently were very little understood. For example, the overwhelming and dominating emotion in all the animal kingdom, man and the animal, is fear. Fear supersedes everything else. Music may be going on in a theatre, yet at the cry of fire everything else vanishes; the animal impulse is to flee. In order that we may successfully flee and thus carry out the impulse or instinct of self-preservation, the heart action is

increased, and the brain action is stimulated. The muscles, in response to the brain messages, are called into activity. Now, the extent of that activity is determined by the secretions of three glands, one of which is the thyroid gland which you see enlarged in the neck in cases of goitre.

In the case of animals, for instance, the cat or rat, if you attempt to kill or destroy the cat or rat by aggression and strike them they will flee. It isn't as a result of thought; it is involuntary; it is hereditary; it is the result of the impress of generations, of centuries in this type of animal. The moment that animal flees, the rat toward a hole, the cat up a tree or elsewhere, they have secured safety, but suppose the cat or the rat are cornered. They realize that there is no avenue of escape. The glands that stimulate the heart and brain, that stimulate the muscles to activity, stimulate that cat and rat to turn and fight. In other words, in that lies their safety. Fight. They have forgotten all about flight.

Now, in the matter of cases of drug addiction, in cases of alcoholic abuse, we find men confronted with all sorts of difficulties in every-day life; there is no outlook for them in the way of promotion; there are certain deterrents; they are not given a security by their employers. They become fagged out through insanitary conditions; they worry; they fret; they fume; they seek flight, but their flight is in turning to drugs, in turning to alcohol, in turning to some one or other of the so-called narcotics. They attempt and believe that they do attain a measure of safety. At any rate, there is oblivion from their anxiety and worry, from all the conditions that are depressing and discouraging, but that short-cut is short-lived. By taking these drugs, the morphine or cocaine or alcohol, they blunt the impulse that comes to the brain normally to pour out these juices of the glands to stimulate an impulse to fight.

I don't know whether I made it clear or not, but that is my conception of the beginning of alcoholic addiction. Heredity may play a large part. Some authorities say 70 per cent of the addicts are addicts by reason of heredity. I do not mean that the child is born a drunkard, but the child is born with a kind of temperament that is restless and disturbed; it has longings, appetites, tastes

unsatisfied and unsatisfiable, until it comes to the age when it attains a measure of freedom and begins to reach out for something, it doesn't exactly know what. Along comes the heroin addict looking for a new pal. The child, the adolescent meet him; it has its first dose; it is initiated, joins the ranks, and so it is with alcohol.

The youth at college cut loose from home restraint with these longings; there is some disturbance of balance in the secretions of these ductless glands. One stimulates brain activity. This thyroid gland in the neck is the monitor, the pacemaker; it holds in check these mental activities. If it were not for this monitor we would run wild through the stimulation of the other gland. On the other hand, if the brain, for instance, is lulled and dulled as it is by morphine, the stimulus that should go through the nerves of this gland is absent. We get none of that brain nutriment and muscular nutriment. Take away the drug and the man has collapsed physically and depleted mentally; he is a wreck. Without this stimulation or food that these glands produce, he cannot cerebrated originally. He lies; steals; he becomes a criminal and sometimes I feel we hardly should blame him for it. I see them absolutely depleted; I see them collectively; I see them individually. I tell them individually and collectively that I look upon them absolutely as beasts as they come to us. They are simply human machines; they have a so-called brain; they have a heart which pumps blood through the vessels and nutrifies them in some cases fairly well. I tell them I take very little stock in what they say to me at the start. I ask very few questions, but I hold them strictly to account afterward.

The other day I dismissed a man for falsehood. To be sure there was an added offense of leaving the grounds, which are wide open, without permission. That made its impression upon the others. That dismissal doesn't mean a comfortable seat to New York, but walking for sixty-five miles. I did that for a specific purpose. This man falsified in seeking a position. I permit none to approach me with details. If anything goes wrong, and I am happy to say practically nothing of any account has gone wrong, it has to be presented in a straightforward, open way. There are no spies. We had one case of smuggling of liquor and I found out

afterward that man had spent eighteen years in prison. He had been a drug addict and was a pretty worthless specimen to us there, at any rate.

I look upon the drug addicts and the alcoholic as the cat or the rat in the corner. They have sought safety in flight to their alcohol or morphine or heroin or cocaine. They are down and out and cornered. They realize there is no safety in that kind of flight, but they haven't the brain power, the will power to turn and fight back. By building them up physically, by building them up nervously, by stimulating their will power, by stimulating their self-respect, by self-denial, I tell each and every one individually and collectively, because we have an individual conscience and a crowd conscience. The individual conscience is the conscience that would prompt you to say what we think in the presence of others, of some individual. The crowd conscience holds it back. We are afraid of public opinion. So, as I say, I take them alone and collectively. These people are the cat and the rat in the corner. They are taught to fight back; they know what their enemy is, it is alcohol, it is cocaine or heroin or morphine. We talk about it freely there. All the distress I feel that has come to them; all the suffering and sorrow, poverty, sickness and distress that has come to their families, is pointed out clearly to them, so I stimulate them to fight their enemy. The probation officer dealing with these cases might follow that line of work or that mode of attack of this situation.

I build the men up physically, temperamentally and mentally and give them this conception of their duty toward alcohol and their former addiction so as to look upon it with abhorrence, to grapple with it and throttle it. I doubt very much if you can get that sort of aggression, that sort of spirit and the self-respect that comes with it by soft words, a pat on the back, condoning an offense and that line or that attitude toward these people. I should say that the probation officer should himself be above reproach. He should have tact, in that he should put himself, if possible, on the plane that these men are on and then look back and be guided by his higher conceptions in dealing with the individual before him.

The alcoholic has his brain stimulated to activity apparently. It is not a stimulation. The brakes are cut loose; he has all the

dangerous sensations without the deterrent — worry, pain, anxiety, remorse or depression. At the moment of his indulgence things look rosy and after a while there is a confusion of ideas, loss of co-ordination. We see the intoxicated man in the street; he staggers and he makes grotesque motions. Oddly enough, he can maintain his equilibrium fairly well. Oftentimes, in the presence of the crowd he excites laughter; we watch him and laugh at him. Why? Because we are so used to him. He has been with us so many centuries; he is no novelty.

Now, can we logically in a treatment covering seven days, a week, two weeks or a month, expect results in cases of drug addiction or alcoholic intoxication which are chronic? The results that have come from the catch-penny cures or the much-advertised methods of cure are psychic. I mean, the man has had the horrors of the situation so impressed upon him that he seeks safety in flight. How can you expect a man who has been depleted, who has been poisoned for years by a drug or by alcohol, after a few days' treatment to cerebrated logically? How can he develop will power; how can he display judgment? He is all at sea. The man who would kill; the man who would be one of our aggressive criminals under cocaine or alcohol becomes a deflated coward when his drug or alcohol is taken away from him.

At Warwick, we aim first to build up the physical side; next we build up the mental, the nervous side. We aim to have self denial practiced. The men work and it is a curious thing they like to be governed, to be driven in a way and with precision. I was surgeon-general of the navy for four years and took up this work because I saw in it what I thought to be a big field. The psychic factor of having been surgeon-general has its impress on them. They think they are being governed in a military way. I told one the other day when our camp colony was established we were going to organize that camp precisely as we do our military camps in point of view of sanitation and all the rest, and I want you to be one of our watchmen; you will be responsible for the discipline and order, the cleanliness and all that sort of thing. At once he said, "I do not know anything about the military side of it; I cannot stand up straight." The other day one came in and called me "Admiral." That had been my rank. I told him this was not

a military establishment. "Well," he said, "we all take some pride in having you here and when the order is given you will see we will carry it out as far as we can with military precision." And that is so. Some of them were a little late at meals. There are no rules and regulations posted; I had one of the leaders read out that each man was to be there at 7, 12 and 5. There were no threats; they knew very well if they were not there there would be no meal for them and they are all there and on time and no trouble about it.

So we aim to have precision, have things run in an orderly way. As far as discipline goes, they discipline themselves. The first case that occurred, an offense, I asked them to elect what I called a board of reference. They picked out three of their own men, the most reliable ones there on this board. I then brought the man before them and I preferred the charges and turned him over to them. They held open court, the charges were read to him, the witnesses were called to testify to what they had seen in this man's offense. He was asked what he had to say. He was convicted and they recommended a sentence. This document was drawn up and I approved it. They took it back and held their own meeting and the sentence was read out and the man disciplined. First he thought the sentence was excessive. I told him it was the judgment of his pals and he would have to abide by it, and he became one of our most loyal industrials.

I take them into my confidence; I asked them what they would like to be called. There were three or four names. I asked them, will you be called "inmates," "patients," "industrials," or what? They themselves selected the name, "industrial," and that was the one I would have selected. There is a suggestion of work; there is some dignity. They bring back to the city all the city gives them in the way of work. It isn't the individual being helped alone, but the dependent families.

I have seen a man within twenty-four hours become so optimistic that his whole attitude toward the establishment, toward his cure, has changed. There was a man addicted to morphine for twenty years; he had delirium tremens two or three times and he was sent as practically a hopeless case. I saw him at the start. Things went well for six or eight weeks and then he came to me and said,

"I would like to leave at once." He hadn't slept more than two hours any night and wanted to go to see his family sober and clear of drugs. He hadn't been able to see them that way in twenty years. I wouldn't let him go. I spent an hour or two with him in pointing out the dangers of going and his condition, remonstrating with him for not having come to me before. He finally consented to stay. I gave him a few simple things, nothing to make him sleep, and in twenty-four hours he brightened up, and in four or five days he had gained as many pounds and he lived, as far as I could judge, in perfect health. We re-established his attitude toward the past, as it should be, and the result was amazing. That man had regained his character, self-respect and was ready for a fight. He was the cat in the corner winning out against the aggressor.

I teach them that they mustn't look for immediate relief in drugs, but to realize what health is. There are people who have normal health but are looking around for something to make them feel a little better than the normal. The moment you soar above the normal line you are bound to drop below, so I point out what the normal is, what health is, show them that they can be absolutely independent of any drug to be keyed up with, and that they can get on practically without drugs.

GENERAL DISCUSSION

MR. ARCHIBALD J. MCKINNY, CHIEF PROBATION OFFICER, SECOND DIVISION MAGISTRATES' COURTS, BROOKLYN: This question of alcoholism and drugs is an important one. I want to say we are happy in Brooklyn to report that the number of dope fiends is lessening. I think this year we haven't had more than five on probation; the commitment of these victims to the hospitals is a great help to probation officers. Last year, before this bill went into effect we had great difficulty with those men, because we couldn't do anything with them. We did commit some by consent to the Kings County Hospital and the general record there was that they would stay three days, not long enough to produce good results. I do not think, as a matter of fact, that this habit of taking heroin or cocaine is done for the sake of doing the thing, of getting the habit. I think it is done largely by young people for the novelty;

it's sporty, and they think they are in the crowd if they take the dope. That has been the report to me by most of my probation officers. They take it for that so-called "tired" feeling.

We had a rather interesting case in Brooklyn of a bartender. He worked nights and instead of taking his proper rest during the day he went out for pleasure and when he came back to the shop naturally he was not in condition to go to work. One of the patrons of the saloon noticed his condition and suggested cocaine, and then he found he couldn't sleep and then the same patron suggested heroin. That man became a positive fiend. I had him under my care personally. It was before the law went into effect allowing them to go to hospitals. I think he was willing to rid himself of the habit and had gone to 26th street and engaged there for the cure. They gave him a bottle of stuff to take and when he came to my notice he had just about one dose left. I took him to the Health Department and they said it was nothing but morphine, and I thought it was a fine chance to catch these schemers in New York. The doctor gave him a drug for that night and he was coming back to my office the next day and was going to buy this stuff and I was going to take it to the district attorney's office, but he never showed up. That is the trouble with most of those people; they are not so willing when they get over the effects of the drug.

There is a difference between the dope fiend and the man who drinks. The man who drinks is a man that likes company. When he starts to drink alone, look out.

The dope fiend will go and take the dope by himself, but the man who drinks wants company.

The records in Brooklyn prove that drink is on the decrease. I won't say drinking beer, but in ten years the number of arrests for intoxication has decreased 50 per cent. in the Second Division. I don't really know what that means except that they either have learned to drink scientifically or else there is something else winning them away. Some people believe that the moving pictures have helped that very much. The man will now take his family and go to the moving picture show where hitherto he would go to the saloon.

I hope we will be permitted to take advantage of Dr. Stokes' institution. It is a most discouraging thing for the probation office to have these so-called drug addicts coming and going all the time,

going to the workhouse for ten days and coming out with the same result all over again. There is no cure until we get these people with Dr. Stokes.

MR. GEORGE A. DALY, PROBATION OFFICER, COURT OF SPECIAL SESSIONS: I will speak from my experience with certain types in the Bronx Special Sessions Court. Getting right down to the point of the advisability of placing dope fiends on probation I would say in general I have found it to be unsuccessful. I had 250 cases given to me for investigation last year in the Bronx Special Sessions Court and of that 250 cases 120 were heroin addicts. Most of you must know the drug pest was very thriving in the Bronx last year and had been up until about two or three months ago when it was pretty well driven out.

I had under investigation the "King of the Cokies" in the Bronx. They are very often called the "King of the Cokies." But this particular individual I have in mind was a young man who had promised the District Attorney everything under the sun if he be given a chance. He was given the chance and I hoped to bring him back. Three months afterwards I brought him in for violation of probation and during the whole time he was on probation he was using the stuff. So much so that in order to have given him the proper supervision I would have had to sit down in front of his house with a gun and put a lariat around his neck, if I wanted to follow out the plans I started with in the beginning. I had to give that up as a bad job and let it work out until the probation was up. I brought him back and reported and he was sent to the penitentiary for six months. He was out for one month when his sister told me he was selling the stuff. He was beginning to look bad again. I promptly went to the detective bureau and gave them the information that he was starting to sell again and in three weeks they got him and found he had been selling as much as twenty-five dollars' worth of the stuff each week and he himself had been using it at the rate of three and four decks a day. He was brought in and sent to the penitentiary again. There was a report around that he died from the effects of heroin, but he is still alive.

I will speak of another case of a boy who just started the habit. He had been using the drug for one month before he was arrested. The co-operation of the mother, father, and aunt and doctor was

secured and by keeping constant watch over him I succeeded in bringing him around. That took six months.

I had another case where the boy had been using the drug six months. I secured the co-operation of the parents and doctor and another relative and we succeeded in fixing that boy up, but one month after they suspended sentence he came back for the same thing and he was in a worse condition than the first time he was in court.

I had a number of other cases worse than the boy I speak of and yet not quite as bad as the "King of the Cokies." After trying to do everything possible, trying to get treatment from doctors and having them report to me more than once a week, I found out in the end they had to be brought back for violation, so I came to the conclusion that, generally speaking, it was almost useless to place those boys on probation.

A doctor was sent to take charge of the work in the county jail. I asked that the defendant be remanded for two weeks or a week to the county jail so that the doctor could give treatment. That two weeks showed a great change and I had conferences with the doctor and he said he was able to do something with these boys, but he felt it required at least six months' treatment to get them well on their feet. When I asked that they be committed for two or three months, it was done and the doctor put them on their feet.

Of the three I have in mind, two went out and did not return; one went back and became a seller and he was found with thirty-eight decks in his pocket and some bottles were found underneath the stoop of his house, so he was a reformed user turned to a seller.

I have had but little experience in handling the cases where drink was the cause of delinquency, but I have tried to get a proper estimate of the situation in the beginning. I look upon the case investigated as a prospective case for me and I have felt it was my duty to find out and help the court to decide whether or not there were elements in that individual's life and in the future that might stamp him as a good risk on probation. I try to get those facts so as to present to the court. I believe in getting the proper estimate of the situation in the beginning to find whether or not the cause can be removed. If it can, I think you stand a good chance of being successful in your treatment. If you cannot

remove that cause, I think it is almost hopeless to ask that that particular individual be placed on probation. I say these things from my experience and that is the conclusion I have reached. If you can remove the cause you can hope for a cure.

I found in cases where they were committed to the care of the *institution* such as the county jail and then turned out on probation, we did something with them, but then, even, my star performer was arrested last night for having heroin in his possession again, although he had been sent to the hospital, and treated a good while on probation. He reported regularly every night, and came in apparently not under the effects of the drug and in good health, plenty of color and weight, and was there with his nerve and with a good story and good account of himself, but last night he failed to show up and I learned that he was arrested. The officer making the arrest said he didn't know whether he had three or four decks in his possession. There was my star performer disappointing me. You do not know when you are going to win out. Really these "coke" fiends are not cured until they are dead, because if they go back to it, they are never cured. I do not wish to stand in direct opposition to Dr. Stokes, but I feel if these fellows ever go back then they never were cured, provided, of course, we stick to the full and complete definition of being cured.

DR. STOKES: I have asked for permission to talk about one or two remarks made by the previous speaker. How do you expect to get a permanent cure for residents in the workhouse? In what more absurd situation could you place a helpless, hopeless addict? A man who said he had been eighteen years in prison told me there was never a day while in prison he couldn't get all the morphine he wanted. What do the probation officers do for these people; what is your line of work; what is your attitude? Do you help them to build character; do you give them anything to cling to; do you point out to them a clear conception of what has gone before? If so, how can you expect them to grasp it when their minds are befuddled and have no initiative? You know and I know they are cunning and deceitful. You have heard me say I wouldn't trust one of them. How can you expect results? Suppose a man slipped up; you are not going to condemn him. We

should get together and hammer it out of him or hammer him and get him to grasp that attitude and then you will get results, but what does coddling him and seeing him every night and every day, amount to? He is simply trying to please you. Of course, he will fail. I think every court, I think it would pay (we have to put things on a sordid basis) to have a medical officer in every court to determine the man's mental attitude when he commences an offense to determine whether he is appreciative of the enormity of his crime. We see people railroaded to prison who are befuddled mentally. What good is that going to do? Suppose the drug addict or drunkard comes there. The medical officer to the court explains to the judge what this man's condition was when he committed the alleged offense; put these facts before the judge and he would gladly turn that man over to the probation officer and perhaps that awakening would produce the psychic effect that I said was so helpful. In some of these quack cures, it is the psychic impress he has received.

MR. DALY: Regarding the matter of sending the individual to the workhouse, they are sent there without any suggestion on our part and we only hope that while there they will not get the stuff. If they get it it isn't up to the probation officer. I know they come out worse than when they go in; only last week a fellow told me "I get more in the workhouse than when I am out." Of course, many things should be done which the probation officers are not able to do. We cannot do all we want to do with these individuals on probation. We should send them to some place where we hope they will get it out of them. They get mere temporary relief and then they come to us hoping they are all right. Certainly I shouldn't expect too much and I don't think any of us do, but we must accept that situation and if they are turned over to us from the hospital we take them and try to do what we can with the means at our command. I am sorry to say they are very very difficult. We would be very glad to take these fellows and lift them up, but I have found in experimenting that if I want to get one right, I might just as well give up all the others. One man will need my constant care and attention. If we could get them away from the old environment where they are continually under that influence

it would be most helpful. When with us, they are under the influence of the probation officer a short while and then the rest of the time they are under the influence of these other people. I do not think probation, as carried on now, is suitable for these offenders; it is not the best means for handling the heroin fiends. I think there ought to be some place like your institution where they can be constantly under your guidance

SECRETARY CHUTE: I would like to ask Dr. Stokes a question. Do you think there are any cases of drug users or alcoholics that can be benefited under probation? If so, what kind of treatment should be used?

DR. STOKES: Those cases possibly that have been selected by a good medical officer where the man has no clear cut knowledge of the crime committed. The field for satisfactory work in line with the splendid work you are doing is after we get through with them. Let the man who is cleared up mentally and physically come to the city and be placed under the observation and good influence of the probation officer; let him be given employment; let him be treated with respect, because if he does cast aside one of these habits he is worthy of the respect of all of us. That is the field of work of enormous importance for probation officers.

MR. FREDERICK C. HELBING, CHIEF PAROLE OFFICER, HOUSE OF REFUGE: Dr. Stokes, do you believe a man taking the Bishop Cure and Brennan Cure for two or three weeks is finally able to come out and battle against the use of the drug again or should he have institutional care?

DR. STOKES: It seems to me illogical; it doesn't seem sensible, although they do get results, but in my opinion it is from the impress they receive; they have been so terrified at what they have gone through; sometimes their pocketbooks are touched and if you touch a man's pocketbook you get a response.

I believe these men are not physically fit to go out into the world and these things I have been telling you are not visionary. They have been demonstrated in connection with this work in the laboratory. The brain of the alcoholic who dies of delirium tremens, is

compared with the brain of the man electrocuted. You can see a difference in the composition. The brain is largely disorganized. How can you get a normal response from a brain that is not together, that has nothing to get the will to what is right, the force to carry it to finality. You cannot get that from a jelly inside the skull. It has got to be built up to get permanent results. Of course, there may be slip-ups and setbacks. Many cases come from intestinal intoxication; some from bad teeth and bad teeth setting up infection and putrefactive gases in the intestines. Those cases have to be treated over some period of time.

MR. DANIEL J. WHITE, PROBATION OFFICER, CHILDREN'S COURT: Is it the intention of the institution to use any after-care officers in the field instead of the probation officers? Is it the intention of the Board of Inebriety to have field officers?

DR. STOKES: The plan is to have what we might call a "collecting zone" in the city. We will call the Warwick activity a "remedial zone." The zone of disposal after they have been through the preliminary basis is the most important. The having of a man there for a few months or year where he is under observation and is offered every care and is doing hard work and sleeps well, isn't a fair trial. The most important part is the disposal zone. It is the plan to have field officers. Those who appropriate the funds look upon our activity as something of a joke, unless someone is greatly interested in a relative or friend who is seriously afflicted, then the case is brought right home.

MR. GEORGE D. DEGENNARO, PROBATION OFFICER, COURT OF SPECIAL SESSIONS, BROOKLYN: I think in considering the question of drug addicts we must assume that these victims are weak-minded and of sub-normal mentality. They acquire the habit by chance or otherwise and naturally they hold on to it until helped somehow or other.

What can we do with these unfortunates when we know they lack moral force and will power? I believe physical help alone will not be of avail to them. They must have moral help and to my mind the first consideration in all of our treatment of these addicts is the moral one. By means of the personal appeal the

probation officer can awaken the better instincts of these unfortunates. Their will-power has been undermined to a certain extent and they have got to be helped by someone who can help them. This, of course, is the province and the duty of the probation officer, but this demands on the part of the probation officer a great deal of sincerity and strong character. A great deal depends on the personality of the probation officer and of the individual to be helped. The probation officers are handicapped to a certain extent because of the lack of time. They need a great deal of time to devote to these cases.

DR. STOKES: The previous speaker pointed out his impression these drug-users are weak-minded. We know the armies in the field will fight for a principle; they will fight for flag, for country; they honor their countries. They may win a battle, but they will loot, they will steal, they will debauch, and why? Are they weak-minded? Is any man who faces the battle possibilities weak-minded? He fights for honor, and he thinks so much of flag and country, he is willing to sacrifice his life, yet it is human nature; it is hard to describe the reason for it, but he will debauch.

These men are not disordered mentally. If you could see them as I see them; they have debates and play games; work hard and with judgment and sense. I try to teach what I can in the way of trades, electricity, plumbing. They are not mentally feeble. They are men whose mentality has been out of balance and disturbed. The intoxication impulse has come to us through centuries; it is true you may be able to repress it. Someone else is not able. You may be subjected to conditions that do not awaken it and some other men may be subjected to other conditions. The first thing you know it overwhelms them. He is unfortunate and has got to be helped. It is my intention some day to write a little sort of textbook or pamphlet along these lines that we may use in the schools and in military organizations, to point out the so-called pre-inebriate stage before adolescence to a child approaching adolescence, telling him what is right, how to strengthen character, how to tide over and pass over the adolescent period. You get them beyond fourteen, fifteen and sixteen and they will go on to the early twenties and then there is another period of disturbance, and then they are pretty safe until they get along toward forty.

If we can save a few, if we can tide them over the first danger period and get them into the second, it will be helpful. One man absolutely saved is certainly worth trying for.

MR. WHITE: I saw during the past week that a great many drug fiends have been afflicted so terribly mentally that they have given themselves up and asked to be taken to the hospitals for treatment. In case a patient is so addicted to drugs when they arrive at your institution, do you believe in shutting them off entirely or in the tapering-off process?

DR. STOKES: It would be absolutely cruel to shut them off at once. It is better to taper them off, reducing the dose gradually, over two or three or four days. We give cathartics that stimulate the flow of the bile and intestinal juices; we give them cathartics that have other effects and we clear the liver and the brain cells of these symptoms. Immediate discontinuance is wrong. It is cruel.

MR. PATRICK O'REILLEY, PROBATION OFFICER, SECOND DIVISION MAGISTRATES' COURTS: I want to tell you that down in Richmond we haven't yet had one single case of drug addiction in the past three years. We do have plenty of alcoholic cases. We have quite a number of men brought into court who have worked during the week pretty hard and who get their wages and go in to have a drink and spend it all; come home, abuse the wife, throw the children out of bed; and they are sometimes placed on probation.

We usually treat a man of that kind in this way: We get him to sign an agreement that he will allow the probation officer to draw his salary during the continuance of his probationary period. The next step is to see his employer, which usually can be done, but in some cases it perhaps cannot be done, and we get the employer to agree to those terms, and the probation officer draws the salary and gives it to the wife; that system has worked very well.

In the treatment of my cases, I have tried various ways, the tapering-off process and the substitution of beer for whiskey, and while we had some very good successes, I cannot say they were permanent. These men usually go back again, the same old story, coming home drunk and calling the wife vile names, etc., but I

have had many cases where the man was induced to stop drinking altogether. We do have many successes and I believe the only way is to stop it altogether and it can be done if a man has the will. If he will say, "I will stop it," and mean it, he can do it, but it is the great trouble that they don't mean it.

I had a case of a man that was on three months' trial. His wife had left him; couldn't live with him, and he was taken into court. The judge adjourned the case for investigation. I found he was the proprietor of a saloon and from a good family. He had lost his arm in an accident and took this way of making his living. He promised to stop drinking. The next day the judge said, "I will suspend sentence if you will stop drinking," and the man said, "I will." "I do not believe you can do it," but he did it and that is two years ago and he hasn't drank anything since. There is only one method to keep sober and that is to stop drinking.

JUDGE ROBERT J. WILKIN, CHILDREN'S COURT, BROOKLYN: I think the doctor has touched upon what most of us understand when he spoke of the psychic nature of it. If I understand his treatment at all, it is first to get the man to know himself; know he wants to change and then make up his mind to do it. When he does that, that is the end of it.

Probation officers cannot do very much in that line if I know anything about the probation officer's work. We are told they have fifty or sixty cases a month and follow those cases in all parts of the city, spend an hour a whole month on a case. You cannot do anything on that. I had a boy twelve years old come into the children's court. He had been a dope fiend for a year. There is no use in sending that boy with the probation officer. I might just as well have a boy with a broken leg and give him to you to fix up. Probation officers' duties and possibilities are great, but you cannot do everything. The dope fiend should be taken care of first under medical care in the hospital. Doctors tell me they cannot cure them in less than a year. I do not mean to say they must be locked up all that time, but they should be under treatment by a trained medical man. Neither you nor I have that knowledge. We are trained to determine whether the State shall interfere with the citizen or not legally. You are trained to try to bring someone

back to the right path, but doctors are trained with medicines and their business is to apply remedies that do not come within our powers at all.

It seems to me, to sum up all said to-night, the dope fiend,— he who uses cocaine or heroin or the other narcotics,— should be placed in an institution under the care of a medical expert. When he comes out, then some one should see that he keeps on the right road. Of course, that isn't your province because you haven't the time. The institution evidently contemplates doing this work, which is another evidence of the wisdom of its conduct.

I think if there is any conclusion that we can reach to-night it is that the dope fiend in the first instance had better be placed under the custodial care of the medical fraternity until he can change his psychic condition. How many times you have heard a man say, "I cannot stop smoking." Get him sick in bed and see how quick he forgets about it. When the dope fiend gets into that condition then there is small chance that we can do anything, but in the first instance when you report to the court that this is a narcotic user, habitual user; he has lost his self control, then it is for you to tell the court and it is the wisdom of the court to find a place where that user can be cared for. In the City Reformatory as soon as we find the boys are drug-users, we immediately place them under the care of the physician. Owing to the crowded condition we have to discharge them within the year; but that is the first proposition it seems to all of us. It is a medical question and it must begin there.

MR. JOHN J. GASCOYNE, CHIEF PROBATION OFFICER, NEWARK, N. J.: I have been very much interested in the subject you have been discussing. There is no probation officer I know of that is competent to take care of a drug fiend. That man is sick physically, mentally and morally, and how can you or I expect to take care of him and allow him to be at large and without guidance excepting for about one-half hour in the week? It is an utter impossibility; it is a hopeless task; it would be an unfortunate affair for you to undertake. I believe that every reformatory or penal institution that is caring for offenders should have attached to it an annex or hospital of some kind for the special treatment of drug fiends. I think we have all come to realize in our inves-

tigations from day to day that drugs are responsible to a greater extent than is generally supposed for a number of the offenses committed day after day, and for that reason instead of punishing the man for the offense that he has committed, we should treat him in a scientific manner for the cause which brought him to the point of committing the offense.

We talk about the after-care or the probation care of the individual after he has received his medical treatment. I do not think that is a matter for the probation officer. If a man is sent to an institution for care, he should be followed along by a person who is attached to that institution and understands what after-care means. If he has become a criminal because of this drug habit, why the probation officer has no right to undertake to have him report to him and mix any with those who have committed offenses who are not drug fiends. He is a special individual and should be treated by a person who has had rather peculiar training for the care of such individuals.

MR. THEODORE TRIEPER, PROBATION OFFICER, COURT OF SPECIAL SESSIONS, BROOKLYN: Dr. Stokes spoke of the need of the courts having medical officers; that is a great need. I think every one here ought to be a messenger for the purpose of trying to induce the Board of Estimate and Apportionment to grant more money to the Inebriate Farm. We have subways for the convenience of the public, but for the upbuilding of the poor fellow who needs it, there is no money. They laugh at this thing. I think we all ought to take this matter in hand and show them how serious the subject is.

THIRD SESSION

Thursday Evening, April 29, 1915

BOY PROBLEMS

MB. BERNARD J. FAGAN, ACTING CHIEF PROBATION OFFICER CHILDREN'S COURT, MANHATTAN, presiding:

The subject to-night is "Boy Problems." We who work in the Children's Court know that there are many boy problems. The topics mentioned are truancy, employment, recreation; what can be done for boys in summer vacations; what can be done with boys who steal; treatment of sub-normal boys; how can the co-operation of father, mother, other relatives and friends be best obtained; how much do we know of the boy's environment, associates, interests, how much should we know, how can we best help in the choice of these? Those are the problems we are to take up this evening. They are the problems that confront us every day in our work. The greatest of these problems is truancy, and the speaker of the evening is a gentleman who is endeavoring to bring the new Bureau of Attendance to assume its proper functions and to co-operate along the best possible lines with the agencies of the city to reduce, if possible, the vexatious problem of truancy.

DR. JOHN W. DAVIS, DIRECTOR, BUREAU OF ATTENDANCE, NEW YORK CITY: As indicated by your Chairman, the new Bureau which has been in existence practically since last September and the official title of which is, the Bureau of Compulsory Education, School Census and Child Welfare, is an important Bureau. This is the first time in the history of the United States that an attempt has been made to focus the work that is so important, the so-called child welfare work.

You have limited my presentation to the truancy problem only, which is one of the many numerous problems that we have to attempt to solve. In attempting to solve these problems, we are co-operating with all the agencies, charitable and otherwise, in the City that have been organized for the purpose of ameliorating

conditions that we find existant relating to delinquency and truancy.

The topic to-night is the co-operation between this Bureau and your body, the individuals of your body and the individuals of our Bureau. When I say that the men and women, the field workers in our Bureau are more than desirous of co-operating with the men and women in this staff, I am only stating a truism.

One of the blanks that we have that is intended primarily to save time on all sides is a blank for the principal of the school to fill out giving certain information and signing it. We find it is wise to have written statements regarding persons and things. This particular blank is intended to save time both of the officer seeking information and the principal of the school.

The use of this blank is illustrated as follows: It is the day on which the payrolls are being made ready, the 15th of the month. They cannot be made ready before that date for the simple reason that all absences up to that date must be put on. The folks are very busy when a request comes from the attendance officer or the probation officer to see the principal. To ask to see the principal on a day like that is almost as much as the district superintendent dares to do, and he is the immediate superior. Time is very valuable that particular day. This may be multiplied in other directions for other reasons. Suffice it to say that the principal who is spending his or her time in the class room where they belong cannot be found in a school of seventy or seventy-five classes sometimes within forty or forty-five minutes. If an officer has to wait for the information all that time, his time is certainly wasted. So this very simple card was devised and we find it saves a great deal of time. It is a simple request to give certain facts for the information of the court; date the boy was paroled; when he was returned to school; the number days present, absent, and effort at conduct, and underneath, two lines for any statement the principal may choose to make. This is very important at times. We find it invaluable, provided the principal is interested sufficiently in the work to know that a statement he or she may make will carry conviction to the court, because it is premised when a principal writes that statement that it is a true statement of fact. Here our lines converge and here it is that our efforts to reduce the work in

the school for the benefit of those on the outside who need this information so much may be helpful.

Sometimes you will come across a case such as this. The case is referred to you by the court and you find there have been several weeks, maybe months, of truancy. Such a case came up within the last week. The boy had been absent sixty days and twenty-seven half days, and the court requested that I commit the boy. That was more than I cared to do. The boy had never been reported to us as being absent from school. The plea was that the absence was intermittent; that is, two or three or four days absent, two or three or four days present, and all this time this boy was doing work. Our Department has no authority to commit a boy unless he has been charged with truancy by the people with whom we are associated, like the principal of a school, and until we have investigated the case it is impossible for me to sign the commitment. I cite this as an instance of what may happen. I trust in the future that there will be less of this. The Board of Education passed a by-law yesterday that it is well for you to know of, which I shall take the pleasure of reading.

“The principal of every school when a pupil is absent, except for such known cause as severe storm, personal illness, quarantine for them in the family, or religious observance, shall notify the parents or guardians of said pupil by mail or otherwise on the date such absence occurs. If the pupil is not promptly returned to school by his parents or guardians, or if a satisfactory explanation is not made, said principal, if possible, shall interview the parents or guardians either in person or through a teacher. On the third day of absence if a satisfactory explanation has not been made said principal shall forthwith report the case to the Bureau of Attendance, or where truancy or illegal detention of such children is suspected, immediate notification shall be made to the Bureau of Attendance on the day such absence occurs.”

That means that the news of the absence is telephoned to us and the absence is looked after at once. The object of this by-law is to prevent these long absences, which, as you know, are very detrimental to the boy's morals and everything else, and even worse to the girls. Here, then, is another point where we will get closer together as time goes on.

Just at present we are in the Second Attendance District, bounded on the North by 59th street, extends South to 14th, over to Broadway and down to Canal, and West to the North River. The police are co-operating with us. Any boy of school age found on the streets between 9 and 3 is taken up by the policemen to the nearest school and the principal of that school notifies us by telephone and we send an attendance officer to put the boy in the school where he belongs. In some instances we find boys down there who belong in the Bronx and Brooklyn. It has taken a man over half a day to take the boy to the school where he belongs, but he has been back in school before completing his first day of truant playing. I am pleased to say that in that district it is what is technically known as "clean." There are so few boys on the street that it is practically nill, and that leads me to ask if you know of boys who are playing truant who are illegally absent from school if you will take the trouble to write the name and address of the boy and send it to me on a postal card, I will promise you he will be back in short order. There you can help us a great deal.

Co-operation between the men who are assigned to the courts from our Bureau and the probation officers can best be obtained, in my opinion, by conferences between themselves. The medicine that will cure one man may not cure another any more than the requirements for one boy may fit the requirements of another. In studying the boy you have to know something of his home, of his playmates and his school. Thus far we have had a considerable number of hearings, over 5,500 since last September and we have had a number of consents given by parents to commit boys,—over 600. Of those 600, we have committed but 200 to the truant school. The other 400 boys are on probation in their schools and making good.

The plan of transferring boys to other environment or other classes in the same school has worked well. It sometimes happens that a teacher and boy do not get along very well together. There are times when human nature asserts itself and the boy and the teacher fall out. Sometimes a truant is made that way. The transfer to another class will frequently effect a cure, and we find on the whole that the transfer plan is working out very well. This is due to change in environment, but more often due to the fact

that our attendance officers working as probation officers keep in touch with the boy and are very helpful at times.

When you put yourself in the place of some of these lads and say what can we do to give this boy a show, then you face the problem. We recognize the fact that the State is endeavoring to make a decent citizen out of a boy, and the State is willing to pay. It costs about \$170 a year for the maintenance of a boy that I commit to the truant school. This takes no account of the overhead charge at all, nor computes the cost of vocational training which we are trying to give our boys. If 400 boys are kept in school and not locked up the city has saved \$68,000.

If the officer assigned by me to court duty is put in touch with cases that your are interested in and assigned you by the court, valuable time can be saved. It sometimes happens that children are either kept by the court as witnesses or otherwise and notice is not sent to the principal of the school. In the ordinary course of events we get the notification of the principal that such a pupil is absent. If my man in the court knows the pupil is absent, we relieve that tension by notifying the principal at once that the child is detained temporarily and there are not any hard feelings resultant. Otherwise, the machinery of the law is put into operation and sometimes takes more time than it should to find out that the child has been detained by order of the court.

The problem of truancy is a serious one. Father Lynch, whom I have the honor of knowing very well, in discussing this with me said, "The matter is so important from my point of view that I wish I could bring it home to everyone, that the truant is a possible criminal, and nearly all, if not all the men, whom I have come in contact with were truants in their youth." I have heard a judge state (and he is on the bench to-day and at one time heard cases of this kind), that there was a great deal of nonsense about this truancy business. He said, he used to play hookey when he was a kid and he often stole apples and things of that kind; that, therefore when children were brought before him for that particular form of delinquency, thieving and truancy, he always had a fellow feeling in his heart for them and was never willing to punish them. Had that judge been born and brought up in New York City and had known what it means for the boy to be secured by a

bigger gang and terrorized and made to be bad, he might have had an entirely different viewpoint.

My experience as a district superintendent in the lower East Side of New York showed me that the height of unwisdom was to allow a boy out on the streets for two or three or four days, and yet in those days and up to last night at half-past five, it was permissible for a boy to be out six days before his case of absence was reported to the proper authorities, and much may happen in a week in New York City.

Here again is where we get in touch with each other. Coming back to the proposition that I put forth that in the performance of your duty in connection with school children if you will but allow the man that has been assigned to the court to know the facts in the case with which you are connected, I for one shall appreciate it and he certainly will, because it will enable us to co-operate as closely with you as we can.

GENERAL DISCUSSION

MR. JOSEPH S. MEDLER, PROBATION OFFICER, CHILDREN'S COURT, BROOKLYN: I wish to speak of one matter that Mr. Davis referred to, and that is the co-operation of the police with the attendance officers during school hours between 9 and 3. That, I think, will give the Police Department of Brooklyn a whole lot of trouble because there is so much half time in Brooklyn and you will find on the streets of Brooklyn most every day in the afternoon quite a number of school boys and when you stop them and say, "Why are you not in school," they will say, "We go to school in the morning," and they are through at that time.

DR. DAVIS: They all would have cards which would serve as permits.

MR. MEDLER: We all know that truancy is due to parental neglect and bad environment. Now truancy usually begins when the child is quite young and it begins, as far as I can find through my experience, with boys becoming sick and having indulgent mothers. They play off sick for a day and get away with it and then the sickness increases and finally there are other excuses

offered and the boy takes advantages and he goes on three or four days. From the truant comes the worse case the probation officer has to handle and that is the disorderly child. He stays away from home nights. I do not think a probation officer can do a great deal with the disorderly child unless he gets the case at the start. Usually, before the child comes to court he has been disorderly for several years and by that time it is almost habitual and you cannot do much with him. Nearly 50 per cent. of my commitments last year were disorderly children.

In dealing with the disorderly child, we have been likened to physicians by a good many speakers I have heard at various conferences, and we are in a way. We have to find the cause of different delinquencies and we must apply the remedies the same as the doctor applies the medicines for diseases, but it would be a poor surgeon or doctor who discovers the cause of the disease and not have the medicine or proper tools to perform an operation. We should have a place where we could commit temporarily. I think temporary commitments are a good thing to "jack up" boys, particularly of the disorderly kind, and a good many of the other delinquencies. We tried that when probation was new and they were handled by the Brooklyn Disciplinary Training School when that was in existence. I tried that and I know other officers tried it as a means of temporary commitment for boys and invariably it proved successful, and especially with truants.

There is one thing that helps create truancy and that is putting inexperienced teachers over classes of boys. They don't seem to understand the boys. There is another thing. We have noticed when the boy is brought in on probation and sent to the school he hasn't been noticed before as being a bad boy, but as soon as he is sent in to school every little move and twist is noted and his deportment is marked accordingly.

In regard to employment. I believe that boys should be made to secure positions for themselves. If you are in the charity organizations trying to teach the families that you are aiding them to become self reliant, why not teach the boy the same thing. It is all right if a boy is slow and backward for a probation officer to do all he can to assist that boy in securing a position, because when a boy is placed on probation the judge won't stand very long

having you report that the boy is still out of work. If you keep after a boy he generally secures employment for himself.

MR. D. F. RYAN, PROBATION OFFICER, CHILDREN'S COURT, BRONX: In my opinion, 80 per cent. of juvenile delinquency is caused by truancy, either directly or indirectly, and in my estimation the relation of the probation officer to the schools should be very close.

In my own practice when a boy is placed on probation, I go to the school as soon as possible and I request the teacher, the clerk or the principal to immediately notify me by telephone the first half day that boy is absent, believing if you will handle that boy the first day you are going to stop him from truancy.

In the presence of the boy I request the teacher or the principal to notify me of his absence, and I am pleased to state that I receive the excellent co-operation from the principal, the teacher and the Attendance Bureau.

In regard to the methods of securing employment for boys, I practically make use of any agency that I can, such as the Alliance Employment Bureau and the Catholic Protective Society. I advise the boys to advertise; I interview employers, and use any method I can get to get a boy employment. I have tried to get employment because I believe when a boy is out of employment ninety-nine times out of a hundred, especially with the character of the boys brought into the children's court, he is going to get into trouble again.

The method I use sometimes is this. I say to a boy under sixteen who has not completed the elementary grades in school and has his working papers, "You get work within ten days or back to school you go, and if you don't go back to school you will go to the Catholic Protectory." Three times this month three of my boys on probation secured employment within that ten-day limit, two at \$6 a week and one at \$4.50. That, I think, is a method other probation officers might try.

I believe a boy should be discouraged from working in bowling alleys or with a peddler or as district messenger. I think employment as district messenger is more injurious to boys than any other one employment, although some have risen to be president of the

company, but I do not think they were of the character of the boys brought to the children's court.

Undoubtedly when you have a boy on probation for two or three months, you come to know what his standing was in school, what grade he had reached, and then you come pretty near knowing what vocation he is suited for. You wouldn't advise the boy without education to go in the printing office, but as a brick layer, a pipe fitter, something that didn't require genius. I advise some boys who are handy with the pen to take up draftsmanship, many of them have an aptitude for electrical work. I get them such work and after a while it will tend to bring out what is in a boy and he will finally decide for himself whether he is suited for it or not.

"How can the co-operation of father, mother, other relatives and friends be best obtained?" The only method is by visiting them and demonstrating to them that you have the interest of the boy at heart. The Italian people are secretive when you make your first investigation; they won't tell you anything, but after a while they see you are trying to help the boy and they will do anything for you. They have offered us money and wine and cigars and often spaghetti if you come in at dinner time. That shows they do appreciate the work after they know what you are doing.

MR. MORRIS MARCUS, PROBATION OFFICER, CHILDREN'S COURT: In the treatment of boys who steal, I find where you do not get the co-operation at home there is no use in going on. Furthermore, if you do not get the co-operation of the father in almost all cases you cannot succeed. I had a boy arrested for stealing from a man's pocket, and for a while I received nothing but good reports from the mother. We usually do, if we depend upon them only. She was shielding the boy. I called on the father one night and had a talk with him before the mother came in and he was surprised to learn that the boy had been arrested. We had the thing out and finally he says, "The mother has brought the children up improperly and I am not allowed to interfere," etc. I said to him, "Why not get together and come to some understanding?" "No, I do not think you could do anything with that boy. If I were allowed to handle him he would be all right. I will bet you, you will never do anything with that boy." The mother promised to

co-operate, but the boy always had some excuse for not reporting and inside of a month he had to be committed. It was a case where the father's co-operation was not called in.

MR. PATRICK MALLON, PROBATION OFFICER, CHILDREN'S COURT, BROOKLYN: It is certainly a great gratification to us who are here to-night officially that something is being done, that the Board of Education is at least waking up to its responsibilities, and even if it is a little late, that it is taking hold of the truancy problem which is its problem and which it strove with great force and persistently to place upon someone's else shoulders. I have always said since I had any experience as probation officer that the attendance officer is the probation officer for the child at school, and at last the Department of Education has awakened to that fact and is really grappling with it in an intelligent fashion which will undoubtedly bear very great fruit.

There is perhaps no country in the world where the school teacher has the same influence as here. The school is expected to take the raw material and Americanize it, so to speak, and take the place to a great extent of the parent. It is a tremendous task and I think that the great success, speaking generally, which has attended it speaks a great deal for those whose duty it is to carry out the work of the State as public school teachers, and in saying public school, I mean all schools whether under the Department of Education or not.

There is something though that public schools cannot do by the very nature of the case and that is they cannot teach morals. Not that the State denies the need of moral training, but it considers that this is properly within the parent's province, and there are many things we are doing for parents that formerly they had to do for themselves. We even pick vocations for their children and the schools are doing a great deal in that regard. Perhaps the grammar schools have not been able to do much as yet because they have so much material to deal with, but the high schools and the commercial high schools are doing a great deal, as well as the manual training schools. I have no doubt these high schools are doing a great deal to fit boys into particular positions that they can fit. That is really the parents' work, but the school is doing it for them.

As far as teaching the boy morality, that, of course, is something the schools cannot do. Neither can we, and the sooner we realize that, the better. The original idea of the probation work was that the probation officer would put his probationer as soon as possible in schools attached to the religious societies or churches to which the child in his charge belonged, on the ground that nearly all of the offenses, except petty things that are simply boy spirit, are due nearly always to lack of moral training, and that, of course, the probation officer couldn't supply. The idea was that just as soon as the probation officer received a child on probation he should at once put himself in touch with a religious body and give that child the religious training which he needed in order to grow up a good citizen. Let no one imagine that the State is careless about that matter, although it has not made direct provision. The circumstances are such it couldn't make that provision. The religious bodies of this city were really the first to start probation work and carry it on, and it is only recently that the State has stepped in to co-operate with them and to carry the work on in perhaps a more scientific way and in a way in which records are better and more fully kept, so that the public at large might become familiar with the work that is being done.

One thing we cannot get away from is the parents' responsibility. That after all is the important part, because we have the child only a month or two and we see him perhaps every two or three weeks and then the visit is a short one, and on account of the large number of children we cannot spend much time with him. The responsibility, therefore, must be upon the parents, and we should endeavor to hold them to their responsibility and to do just as little for them as absolutely necessary. They cannot transfer the responsibility to you. Any man who has brought up a family of children knows the responsibility of four or five children is tremendous, and the parents lie awake thinking how their children will turn out, and sometimes when they show signs of kicking over the traces it worries one a great deal and requires the best thought and effort by both father and mother planning together to bring them up well. When you multiply that by twenty or even a smaller number and have from fifty up on probation, then, of course, you see how little real personal attention the probation

officer can give the individual child. He must work through the parents and the parents must be held to their responsibility.

As to the getting of employment for boys, some practical suggestions have been made. I do believe that the boys must be left to their own resources and pushed into doing something. Most of us do not do anything more than we have to.

The boy in school doesn't like to be pinned down and he does not like to do anything against his will, and yet if a man is successful he must train himself to do some things he doesn't like to do. I think principals sometimes consent to give boys working papers in order to get them out of school. If he chafes under the discipline of school, how much more will he chafe against the discipline of the workshop and office? And the foreman will say, "Go and get your money," and out he goes. Then he tries some other place and out he goes again. I believe a boy should be held down as tightly as possible in the school to show him that the life he is going into is to be a life of struggle and constantly putting up with things that he doesn't want to put up with, and working under people who are not agreeable. Most men who have been out in the world for fifteen or twenty years have found it difficult to work under some men placed over you. I do not believe education is so much a knowledge of reading and writing, but the discipline as represented first by the school teacher who is the first teacher that the child comes in contact with that represents the State. The child must be made to learn that this teacher is supreme, and he must be made to put himself to the task before him, and if he doesn't learn a great deal, he has learned to serve, to obey and apply himself. It is the lack of those things that makes the truant in school and afterwards the failure in life.

MR. DANIEL J. WHITE, PROBATION OFFICER, CHILDREN'S COURT: While I am thoroughly convinced that there has been a vast improvement during the past year in regard to the truancy bureau, I am still of the opinion that there should be established separate and distinct courts to handle the truancy proposition, where one or two judges might be selected and they also would study the problem. Such a court as this would study the matter scientifically and deal with it in a more thorough manner.

I would like to speak in regard to the employment proposition. It seems that the question of employment in New York is always a very serious one, and there are many reasons for it, but the most important is practically the disappearance of the apprentice system. Our own boys come up for the greater part without trades. In Germany, Sweden, Norway and France they have continuation schools, and these European governments demand of their children that they return each week from whatever employment they are in for periods varying from four to twelve hours to the continuation schools, where their education is continued along the lines of their occupations. Wisconsin is getting to be a model State of the United States in many respects. They have established these continuation schools, where it is made compulsory just the same as it is in the countries I have mentioned. In a study of 101 children in New York city with ages from 14 to 16, it was found that 96 were in dead-end jobs with neither educational value nor opportunity for promotion.

MISS OLIVE M. JONES, PRINCIPAL, PROBATIONARY SCHOOL NO. 120: When we mention retardation we are forgetting certain historic conditions, certain sociological and psychological conditions. In the first place, up to 1898 the only children who went to school were the fit, the willing, the intellectually able. Since 1898, the unable, the unfit, the unwilling, the defective and the delinquent has been forced into school. All of them have been forced by the operation of child labor laws and compulsory education laws. Up to 1898, it was a privilege that might be shared in by anybody who wanted. To-day education is a legal necessity, forced upon everybody of all classes and kinds and grades of society. With this new type of child forced into the schools we still continue to think that the purpose of the school is the same, not realizing that with the change in the type of child the purpose of the school must also change, and secondly, that we brought upon ourselves the whole problem of mal-adjustment. This question is not a question of retardation at all; it is a question of mal-adjustment.

We have two types of children in schools, book-minded and the motor-minded child, and you try to force the motor-minded child

into a book-minded life and you have a retarded child. Just as soon as you realize that the child who is motor-minded is just as bright and clever and is going to be just as good a citizen as the child who is book-minded and who studies his history and geography and gets 100 per cent in arithmetic, then we are going to hear no more of retardation, but instead have schools adapted to the two different types of mind. The motor-minded child came out and went into the trades. You force the motor-minded child into the average school and you will find him the retarded child and rapidly becoming either the mentally defective or the delinquent, and he is not to blame for either one. It is the people who have put him there who are to blame, and the thing we have got to do is to provide a kind of education and school which will not permit his becoming delinquent, because it will satisfy his activity.

My own opinion of this whole question is that it is grossly exaggerated. I do not believe in retardation in the sense of that word at all. It is a difference in mind and not a difference of backwardness. Of course, the motor-minded child is a backward child if you consider him from the standpoint of book excellence, but so is the book-minded child a backward child if you consider him from a point of view of motor excellency. It is a difference in standard. It is true that the child who is foreign born and has the handicap of language will be many more months and in some cases many more years retarded than the other child. It is because of the difference in language. It is also because that child comes over with foreign habits as well as foreign language. I am a very great believer in habit training. I think after we have removed all the causes of delinquency, physical and mental, environmental and sociological, we still have habit to train away, and the difference between the American-born child and the foreign-born child is that in addition he has that handicap of foreign habit and tradition which he himself must forget at the same time that he is learning the schooling of the new country.

MR. JAMES J. BYRNES, BUREAU OF ATTENDANCE: I think one of the difficulties now is the fact that the child is brought to one court and that the parents are brought to another. Generally, there is considerable blame on both sides, and I think the parent and

child should be brought before the same judge. The judge could hold court in the Bronx one morning and in another part of the city in the afternoon, and there would be no necessity for a new court house. Tuesday he could hold court in the upper part of Manhattan and so on from one borough to another. The chief difficulty we have to contend with is not so much in the children's court, but in the magistrates' courts. If we could have more parents fined there would be less children in difficulty. If we could have a man who had the power of a Special Sessions judge, who would be appointed on the recommendation of the Director of the Bureau of Attendance or City Superintendent of Schools, we would be sure to have a judge in sympathy with the enforcement of the law.

JUDGE ROBERT J. WILKIN, CHILDREN'S COURT, BROOKLYN: When we started in this work a few years ago it was wonderful to hear the probation officers tell us the shortcomings of other departments. It was nice to hear some say that we didn't know what the Board of Education was doing, but still we will criticize it just the same. I was rather amused to hear my friend over there say, "Well, that is your fault that you do not know what we are doing; it is for you to find out." There is a good deal in that, you know, and then there is a good deal also in letting other people know what you are doing. It is rather amusing also to think that the department over which my good friend Dr. Davis presides has reached perfection immediately. They are doing remarkably good work. It only shows how much good can be done when you get seriously at work at the enforcement of the Compulsory Education Law.

When Mr. Churchill wrote me some time ago asking for suggestions in regard to how to enforce the Compulsory Education Law, I wrote him and said, "Take it out of the category of standard jokes and make a serious proposition of it." When Mr. Wallen was in charge of that department he had eight or nine other things equally as large as this particular question to look after, and he was held responsible for it. When Mr. Shallow was there it was a similar condition. Now they have given that department to an intelligent man and are running it in an intelligent way, and of course you are going to get results. We want to be pretty

only perfect in our own particular work first before we find fault with our friends in the Department of Education for not bringing the boy out as a finished article at fourteen or fifteen. In other words, do not expect perfection from all the departments of the city except our own.

FOURTH SESSION

Friday Evening, April 30

WORK WITH WOMEN AND GIRLS

MR. CHARLES L. CHUTE: I find the question of what to do with girl offenders on probation is everywhere a most difficult one. I was visiting a probation officer up the State not long ago who has all sorts of cases, both boys and girls and men and women. He said that he could handle the boys all right, but he had some girls he couldn't do anything with; he didn't have any success with these girls' cases as a general thing. Many officers have told me they believed girls' cases were more difficult to handle, and for the reason that they came late into the courts and were all pretty far gone morally before they were actually arrested and put on probation. I am going to introduce to you Mrs. Mortimer Menken, President of the Sisterhood of the Spanish and Portuguese Synagogue, who has been working with girls for many years in connection with the Night Court in New York city.

MRS. MORTIMER MENKEN: I think it is a great privilege to speak to you on certain phases of the work with the girl who is arraigned as a first offender or as a hardened offender, and what I have to bring to you is no hearsay, because I have been working with Miss Smith for five years as a volunteer worker, trying to help reclaim the wayward girl. I realize if we are going to do anything at all with the unfortunate girl we must do it in the beginning of her downward career.

Whether we view this subject from the philosophical or scientific side, or from the moral or spiritual side, we certainly must realize, in order to get any results, we must take into consideration the factors and causes which make for delinquency. We all know that the causes are as many and varied as the types of girls coming before us; it is difficult to state them all. There are some which might be stated as major causes and others as minor causes.

The first cause of delinquency among girls which I have found most apparent in my work is congestion of living quarters. We

all know what the herding and crowding of people in the tenement house means. I believe that the State should take action in order to bring about a change, not perhaps to stop immigration, but to distribute the immigrant so we shall not have to run up against this problem of seeing the girls demoralized from living in congested, immoral quarters. Girls have told me of the terrible conditions existing in their homes. Sometimes it is a home of poverty where the family have taken male boarders; sometimes there is no modesty in the lives of the girls and boys. Those things all tend to bring about a degenerate, demoralizing effect upon the girl in the opening of her womanly career, and I think it is the duty of the State Probation Commission to see what they can do to have laws made that shall prevent the overcrowding and herding together in these great cities whereby there cannot be the proper environment for the girl at a very tender age.

The second cause which to my mind is apparent in our work is the lack of vocational training in the public schools. I know that the Board of Education is doing a great deal toward bringing about a change in this matter; there should be a compulsory educational training law to compel these girls to be educated in some way to fit them for their entrance into the working life as wage-earners. I have in mind many girls who have left school at fourteen or fifteen so little equipped that they cannot earn a living wage. I have found it isn't so much the low wage as the low wage-earning capacity of the girl. You cannot expect an employer who employs a girl without any kind of vocational training to pay her more than she is worth. She has got to turn out something worth while for the salary; this problem ought to be met by the Board of Education.

Another cause is the lack of enforcement of the laws regulating the working hours for women and children. You cannot expect women to bear the proper children if they haven't the proper hours for rest. You cannot expect girls to start in at work and work long and hard and be able to give their best physical self to the coming race. We are never going to have an army of healthy citizens while the laws are so unrestricted in their enforcement. We have labor laws in the State, but they are not always properly enforced, and we see time and time again that the girls are physi-

cally unfit and that their moral side is degenerate. I believe this is one of the greatest causes toward the increase in delinquency.

Another question I think that ought to come before us is the proper segregation of the girl who is defective or deficient or on the borderline. There isn't any place for those girls. I have in mind to-day a case which has been troubling the court and myself for two or three weeks, a girl who is absolutely a bright girl. That is, she can read and write well, but she has absolutely no moral sense. She cannot make good, and there isn't any place to put her. She stays out nights and doesn't know where she has been. She cannot go to the Newark State Asylum or Randall's Island because you couldn't honestly say she was feeble-minded to the extent of being fit for an institution of that kind, but there should be a custodial place whereby that girl might be kept away from the lure of the city; some place where she could be helped to become a self-respecting girl. I am sure there isn't a woman who is dealing with this work who doesn't know that that type of girl is a menace to herself and society. We should have an institution where she could be placed for two or three years where she might be helped.

Another cause which is most apparent is laxity of supervision in the moving picture houses. Many girls have told me the cause of their trouble was their going into the moving picture houses and meeting people who lured them away. There are sometimes tired girls who want recreation and who drift away from their business at noon hour and find some one who says, "Come along; don't go back to work, and we will have a good time," and the good time sometimes ends later on in the Night Court. There is no doubt that we all look upon moving picture shows as a necessity to-day to give certain educational and recreational facilities to the young and old, but there should be some proper way of attempting to bring about a chaperonage in those places which will prevent this terrible condition which I have found to be one of the prime causes of starting the girl on a downward career.

The other important cause we all know is the marriage of the unfit, the marriage of the unhealthy. We know how disease may bring about degeneracy in the girl and we know how that class of girl is oftentimes brought to the gutter. There are some more important causes and they include almost all of the minor causes.

The sub-topics to-night are many and are most interesting. "Employment and the methods of securing it." "What employments are suitable; which should be discouraged?"

In my experience there isn't any employment that should be discouraged if it fits the girl. I had one girl from the Night Court who became a cashier in a moving picture show and made good. It might seem dangerous to put her there when she had been arrested for soliciting, but that girl who seemed to need a lazy environment, who seemed to feel she couldn't do anything but sit still, realized after a while, under careful supervision, that she was disgusted with the common type before her. She realized what she had saved herself from. She said to me, "Do you know I have learned now what it means to be disgusted with men?" In her crude way she meant to express that those who had tried to flirt with her even when they came to buy their ticket had disgusted her. She made good and is earning \$20 a week and doing well. That is three years ago. Probably it was a risk, but I felt that kind of work suited her and there was the opportunity to give her that job at \$7.

Another employment is on the stage. I know of two girls studying for the Metropolitan Opera House ballet. At an entertainment in the Magdalene Home one of these girls danced so beautifully that a gentleman present offered the superintendent the privilege of sending her to this school, and for six months she has been working and bids fair to become a proficient dancer. She seems to be in a way perfectly rejuvenated through the privilege of having an outlet for her spirits. In order to earn some money she cleans the home of a friend of one of the women working for me and is trying to make good. She has to help her mother while she studies for the stage.

Employment must be suited to the girl. You cannot stigmatize any employment as unsuitable. We may say factory work is oftentimes a menace. The work is confining; the very fact she is so overtired tends to bring about a harmful result, so we must study the individual most closely in securing employment. How to secure it is a very important point.

I felt that if I could take the girl myself and secure employment for her it would be most beneficial. I thought if I could see her

get her work I would be sure she was there; but I found it was embarrassing for the girl; it lowered her dignity and self-respect to feel she couldn't make good by herself, and therefore I have found if we gave the girl the money for car fare and for telephoning to us to let us know whether she has the job it is much better than going with the girl.

"The Proper Kind of Recreation." I think that is a question we all must take according to the needs of the girl. One girl I have in mind loved the theatre so much that she constantly wanted to go. I secured a fund one season to give her enough theatre to make her tired of it. She had gone wrong because of her love for the theatre. She had to see the acting, the glare and glitter. She saw enough of it in the year, and after a while she didn't care for it any more. She said she rather save the money and she has saved enough to provide a helpful training for her sister.

"The Protection of Girls on the Streets and in Public Places." I feel if the girl behaves herself there isn't much danger on the public streets. I do not think that the girl who tends to her business and goes along without ogling is going to be in danger. I am not one who believes that some person is lurking around to see how many girls he can injure. I feel that the girl who has admitted to me that she has always been the prime mover in loitering or soliciting makes me feel it isn't a menace for her to be on the street if she will behave herself.

"Holding parents to their responsibility in improper guardianship cases." I think that is the most difficult thing to do. I think the greatest trouble in this work is that we appear oftentimes to take the girl away from the home instead of making the family feel its responsibility. I do not believe in the State or city looking after a child or girl if the family can be made to feel its responsibility, and the work should be with the family in the beginning. We should bring the mother to a sense of her responsibility and not let her say, "My daughter has done wrong and I am not going to bother; let her be taken care of by some institution." If the mother is a mother who is not in any way a menace to her daughter,—she may be an improper guardian,—she can be made a proper guardian by the personal service of the probation officer. I think that is where our best work can be done, trying

to make the father and mother feel responsibility. I find you can do a great deal if you can get the people who are nearest and dearest to be patient and forgiving. Why not train the parents to see why a probationer should be given a chance at home? It is oftentimes a case where the father and mother say, "She has ruined my life; she will be a menace to my other children; take her away; she will mar my home." That is the wrong spirit. I think it has to be eradicated. It may have to be done gently and you may not be able at once to put the girl back.

I have a case in mind of a girl who was away from home for four years. She was put on parole for a year in the care of the House of Shelter in this city and she wouldn't give her right address, but we were able to secure the mother's address, and the mother protested against seeing her again. It took about three months to get that mother willing to go and see her daughter and it took three months longer to get the girl in tune with her mother, and it took six months longer to get the whole family ready to receive the girl. Just before the probation was over in order to test the girl in the home we let her go, and she became very happy; the thought of seeing her little niece whom she hadn't seen for four years, who was then three and now seven, awakened her to a sense of responsibility because that niece had grown to such a sweet child, and she said, "Do you know if there were anything that could keep me from going wrong it is that my little niece loves me?" It was hard work to get that girl to go home, but by having the people move away from their present locality and making them feel that the girl had probably been the victim of circumstances and trying to make them feel she was their daughter, it resulted in her going home, and to-day she is doing well.

"The treatment of the sub-normal girl." That has been alluded to as one of the great needs for the delinquent girl. The treatment can never be properly applied until we have more custodial asylums where we can feel she is guarded from that temptation which must allure the girl who is sub-normal. I hope there will be something done for the treatment of that sort of girl.

I have in mind a girl who came from the Orient to join her sister. The brother-in-law objected to the girl and threw her out to fight her battle at fifteen. She drifted into the court and was

sent to the House of Shelter in this city and for a long time she was adjudged feeble-minded. Her grief and sorrow and misery had made her sub-normal, and that girl was adjudged too deficient to be able to take up any kind of vocational training. After she had been there for six or eight months somebody played the piano for about two hours in the afternoon to those girls, and this girl said, "If only I could learn to play like you," and this woman said, "Would you like to?" and she said she would. We gave her the chance and to-day she is studying and developing so well that we feel, although she is only sixteen, she may become really self-supporting through her musical career. She has developed, and you would never know she was the girl of three years ago. Those things may happen, but, as a class, the treatment of the sub-normal girl must be separate from that of the other girl.

"How much do we know of the girl's environment, associates and interests; how much should we know; how can we help in the choice of these?" We have got to follow the girl daily, or weekly, according as we rate the girl's trouble. There are some girls who are very easy to help; some girls who are well fitted to get employment. They already have an occupation. Other girls are so ill-fitted for the battle of life; they haven't the wage-earning capacity. I have found it very helpful in my work to give the girl money to phone to me so I will know she hasn't disappeared.

I do not believe in stigmatizing girls in the employers' eyes or settlement's eyes, as having done wrong. I have had girls very much helped by the social and religious uplift of the settlements. I have in mind one or two girls who have a taste for trained nursing who went immediately from the Magdalene Home into the hospital for training and have made good. They were physically fit and were mentally fit, and, fortunately, they have become morally fit. One girl who was for four years a prostitute went to the Magdalene Home and acquired there in the ward where the children are such a taste for nursing that the superintendent said, "If you can place that girl as a trained nurse she will make good," and I remember having quite an argument with the probation committee. So many objected to her going to the hospital, but I felt there was a good chance if she had the right surroundings; that is, some one who might take a special interest in her, and

while I didn't brand the girl as being a girl who had led an immoral life, I said she had been so unfortunate that she must be watched and carefully guarded because she had never had the proper home surroundings. To-day she is a full-fledged graduate, second in her class from the Lebanon Hospital, and to-day is earning her \$30 a week in the best families in New York.

I feel that religion forms a great part of the work of rescue. I have in mind a special case of a girl who four years ago was before the judge and who had such an exceptional face and was such an exceptional type that the judge said, "I won't try that girl to-night, but send her to one of the homes for the night and see what we can do." She didn't want to speak. She said, "I have nothing to say." She said to Miss Smith and myself in the side room, "I will never tell my history and I will never give my family's name in the court; I won't bring them any more disgrace." She went home with a good woman who was in the Night Court and the next morning about 11 o'clock this woman said, "Mrs. Menken, will you come down and see this girl; she wants to see you?" I went there and found the girl in a most penitent humor. I said, "I am so glad you sent for me." She said, "I feel so differently from what I did last night." I said, "What has brought about the change?" "Well, I heard the chapel service this morning; it is the first time I ever heard chapel services, and somehow I got a softening of my heart and felt my mother might help me." She awakened to a wonderful sense of her obligation to her family and to-day she is one of the girls of whom we are proud. I have found other cases which have been awakened to new life through a sense of obligation to something that is spiritual; at some psychological moment; through the sound of music or something different from what they have had. One girl said, "I never saw a Bible; my mother always had it wrapped up in a paper, and I am going to read and study and see if I cannot make myself as interested in it as many people seem to be." I think if we can bring that forward as a method in the uplift of the girl we will have greater results.

GENERAL DISCUSSION

MRS. JULIA M. O'CONNOR, PROBATION OFFICER, CHILDREN'S COURT: The treatment of girls under sixteen is materially dif-

ferent from older girls. The girl, while she is more plastic and more readily forgets her unfortunate experiences, at the same time forgets the lesson for good and requires the closest supervision of parents and relatives; the probation officer is really lost without them.

The girls who are brought to the Children's Court, even at such a tender age as eleven years, sometimes have the most appalling experiences, and I have found that the most successful way is to transplant them from their present neighborhood to a new one. In at least 75 per cent of the cases the home discipline is violated, to say the least. Most of the homes are comfortable, if you mean the children have adequate food and shelter, but this is often at the sacrifice of the moral training of the child, the normal home life, the mother going out to work possibly by the day and the children being left to their own resources from the time they leave school until mother returns in the evening.

I am a warm advocate of young girls going to settlements and church societies in the afternoons, but do not think it wise for them to go out in the evening unless accompanied by one of their relatives or some reliable adult.

Most of the girls I have on probation are school girls; they cannot qualify for working papers. So far as employment is concerned, if we desire employment for the child we can usually effect that through the Big Sisters or Big Brothers, through the Alliance Employment Bureau, or sometimes through the church. Usually we like to have the children obtain their own employment.

"The protection of girls on the streets and in public places." I might say I think the white girls stand in very little danger of being accosted on the streets, but the colored girls in the colored neighborhoods are frequently accosted, even very young girls. The young colored lads stand in groups ready to accost these school children as they return to their homes from school.

"How can the co-operation of father, mother, other relatives and friends be best obtained?" Sometimes we obtain the co-operation of the father and mother through telling him he will have to pay for the child if it is committed to an institution. When you touch the pocketbook you usually get the co-operation of the parents. In reforming the girl, I believe if you cannot get the co-operation of the parent immediately, sometimes you get the co-operation of

an older sister. I recall a case of a girl about fifteen years of age who had twice been in the Children's Court for immoral conduct. The mother was dead. There was the father who had intermittent employment; he preferred the times when there was no work. There was an older brother who worked when he felt like it, and there were these two girls who were the main support of the household. The older sister gave up her employment and took work in the same establishment as this probationer. They worked side by side and spent their leisure time together, and subsequently the girl was released from probation and was doing well.

I wasn't so fortunate in another case. A girl of fifteen had represented herself to be seventeen when arrested for larceny. There were two older sisters. The father was dead. The mother had attempted to protect the children by saying she had worked in a factory and she felt it was better for her to continue her work, even though the children were of working age, rather than subject them to the same trials that she had been subjected to. This girl, who was arrested and later found to be under sixteen, was transferred to the Children's Court. She had been tubercular as a young child and had been in Otisville Sanitarium. I found it would be unwise to return her to the public school, as she would be in a grade with very young children. I secured the co-operation of the church to pay for her in one of the private trade schools. Later that went out of existence, and she was put in one of the other trade schools and the church continued to pay. She had been attending the settlements and recreation centers in the evening, and the older sisters had promised to take her under their wing and protect her, but they easily forgot that. One of the sisters was not temperamentally suited to assist in this way, and the other girl had her gentleman friend and considered the probationer an encumbrance. One evening the girl was out until 12 o'clock, and the next day instead of going to school she went to a moving picture show and she met a woman and they went to a furnished room together. Later we recovered this girl and through the Big Sisters replaced her in St. Michael's Home, where she still is.

MRS. E. A. HARDONCOURT, PROBATION OFFICER, MAGISTRATES' COURTS, BROOKLYN: I would like to urge that the courts should

provide physicians. I think we are much handicapped for the want of physicians. I have in mind two cases. Both of these girls are in serious condition; they need treatment three times a week, and I am supposed to keep them at work. How can I keep them at work? I don't think it is fair to ask a physician to take all the cases in the Magistrates' Courts and treat them at night free. We cannot get a proper examination and continued treatment. Nearly 50 per cent of my cases were defective and sick and it didn't seem to me they needed a probation officer as much as a physician. I do not think we ought to have to go to strangers and ask physicians to spend their night time on our cases. We cannot give those girls the treatment through the day. I have a girl in mind who has very serious heart trouble and nervous trouble, and yet I cannot give her three days' treatment. She has got to work; her people are poor.

MR. CHUTE: The time is coming, I believe, when every court will have a physician employed in connection with it. The juvenile courts have been pioneers in that respect, but there is just as much need for physicians in the adult courts as in the children's courts to examine and treat cases coming before them. But for the present, until such full equipment for the treatment of cases is had, I think we will have to go back to the method already suggested of getting the co-operation of other organizations. Of course, the success of all probation work depends on getting different forces working together.

In the studies of vice in Chicago it was shown clearly that it was the lack of wholesome amusement in the cases of working girls that led them into the resorts and immoral places where they first met their downfall. Girls come out from a nine or ten-hour day in the shops or stores, worn out mentally and physically, and demanding a change and something exciting. It is a natural instinct to get rest, to get something to relieve the monotony of most of the work that unskilled girls have to do, and as there wasn't any wholesome amusement provided by the city, they took what there was; if the city supplies nothing but unregulated dance halls and questionable amusement places with saloons in connection and worse places, the girls will go there, and so it is a tremendously fundamental question, that of having proper amusement provided.

I am glad there is a number of men here to-night. I believe this question of the immoral girl can never be solved by the women alone, and the men have got to co-operate in it. We are interested in it, for men, as a sex, are responsible a great deal for the immorality of the girls, and we have got to work together, men and women, to solve the question.

MR. JOHN J. GASCOYNE, CHIEF PROBATION OFFICER, NEWARK, N. J.: It is true that the problem of dealing with the girl is far more serious than the problem of dealing with the boy. The girl has gone too far before she is brought to court. Because of the fact that she is a girl many things which she does are overlooked until finally it comes to the point where she is uncontrollable; she is incorrigible and beyond the control of her people, and then she is brought into court. When that girl is brought into court, I believe she should be treated in as delicate a way as possible. I do not think you can go to too much trouble and take too much pains with the little girl in court. I would, if possible, bring her in the back door of the court and into the judge's chambers so she would not have any encounter with any of the audience in the waiting room.

In dealing with the little girl, a complete and thorough investigation should be made in every case before sentence is imposed. Haphazard investigation is absolutely useless. There may be something in that child's life that if you bring it before the court the court, instead of putting that child on probation and having her come in contact with other children that are on probation, may suspend sentence or dismiss the case against the girl.

There were several important matters that I was very much pleased to have brought out here. For instance, the discussion on the question of "How can we better protect the girl on the streets, or places of amusement?" There is only one way to do that and that is by having policewomen. I believe if we can have policewomen and have them stationed not alone in the dance hall, in the theatre, in the moving picture place, but scattered on the streets, that it will do a lot of good. When you get your policewoman and get her working actively and co-operate with her so that each will know the people in the district in which you and she are working, a great deal more will be accomplished.

Mrs. MENKEN: It is almost impossible for the probation officers to fight against conditions which are made from the laws which govern our municipality, and therefore I do hope that this organization will in time, if not now, be able to help solve these problems and bring about a greater spirit of social justice toward the girl. But we must not relax in our personal service and interest and desire to help reclaim the girl. We have always before us the wonderful inspiration of that greatest of all Reformers who said to the weeping Magdalene, "Go thou, and sin no more."

FIFTH SESSION

Thursday Evening, May 6

FAMILY PROBLEMS

MR. FRANCIS H. McLEAN, SECRETARY OF THE AMERICAN ASSOCIATION OF SOCIETIES FOR ORGANIZING CHARITY: I first want to draw your attention to the very close relationship which exists between three kinds of social work and the fact that it is well-nigh impossible to draw any line so far as the character of the work is concerned in those particular fields, though the approach is quite a different one in each one of them. I refer to the work and activities of the probation officer, of the school attendance or truant officer, and of the district worker in the Associated Charities.

Your approach to the family is through the fact that some one gets into trouble. The approach on the charity organization side is also trouble, though it is without any particular individual happening to get into serious trouble. Of necessity, it is essential that your hold upon the particular person in your care, your knowledge of his particular difficulties and your working with that person, should take precedence over everything else. That represents your primary responsibility. But in so far as you are able to get down into the family problems, you are in a very real and vital way effecting a permanent improvement. Under other conditions, if you are overpressed with work and cannot go very much beyond the individual who has gotten into trouble, your work is handicapped.

I want to illustrate the kind of working together which I feel should be brought about where it is not now present between the probation officer (whether it be the adult or juvenile probation officer) and the workers in the Charity Organization Society or any other society which is pretending to hold any ideals with reference to family rehabilitation. Of course, you have families not known to those societies and they have families which are not known to you. However, there come up questions in which you consider it absolutely necessary to advise with and consult those

societies. Wherever there is the knowledge that any other society has records or any previous history of the family to which you are going, you should not stop until you have every bit of that knowledge. That is the first point in co-operation and one that scarcely need be mentioned.

The second point is that where there are families which have been previously known to such societies, families which are under your care, or families which have never been known to those societies but in which questions of relief enter, that much depends upon the attitude of the workers in these two fields of activities, which have many characteristics in common. If one approaches these societies with the idea that they are simply relief agencies and that it is their duty of course to do a certain thing under given circumstances in the way in which you think it should be done, there is an entire misconception on your part as to their possible usefulness and helpfulness in connection with that particular family. On the other hand, if your activities in connection with the particular family are so little recognized that there are not openings for co-operation with you found in connection with any such family, there is distinct error on that side.

No one likes to be regarded as a grocery clerk or coal dealer, and those are sometimes the aspects in which charity organization societies are considered by other social workers. No more would it be right to call you simply police officers with the idea of the ordinary patrolman in view. It is not that the coal dealer or grocer and patrolman are not useful individuals in modern life, but they are not the social workers in an associated charities or in the probation office. Let me illustrate this lack of co-operation. I remember a family in which there had been tuberculosis. Three members of the family had died from it in years gone by. There were left three sisters and a boy, and the boy was the black sheep of the family. Two of the sisters were working in stores and the other sister was keeping house. The boy stole some money given to him by fellow employees in the place where he was working for lunches; he didn't go back, and yet the probation side of the whole matter was dropped. Later, after the Associated Charities (which was not in contact with the probation officer; they were both working separately) had knowl-

edge that one of the girls was becoming tuberculous and there was fear that the disease would go right through the family, so a very large amount of money was expended in getting the family to the country in a place where they could sleep outdoors. After a short time the boy committed another theft which was much more serious in character than the previous offense. He was placed on probation with the result that the girls in the family attempted to repay what he had stolen. The final result was that their own income, plus what was coming through in the form of relief, was insufficient to keep up their stamina, and the tuberculosis spread to the second sister. If there had been a conference of the two agencies, and the boy had been treated with reference to the needs of the family, this disaster might have been avoided.

From this illustration you will see the need of co-operation and that you should see what the plan of the other person or organization is and then work out jointly a plan for the family in question.

MR. FRANK L. GRAVES, PROBATION OFFICER, MAGISTRATES' COURT, BROOKLYN: There are two classes of cases that are likely to be failures. One is where there is infidelity on the part of the husband or wife, and the other is that of the confirmed drunkard. Outside of these the probation officer has a fair chance of winning out if proper methods are used. It wouldn't be fair to probation to say, here is a given state of facts, here are the conditions, now what should you do in those particular conditions? You would do this or the other thing, provided you had the time, but if the probation officer is burdened down with two or three hundred cases, he cannot do much work in each case. Do you expect with more than one hundred and even with a hundred cases to get the best results? That is one of the greatest problems and one for which the probation officer is criticized. Is it not the case that the probation officer doesn't know how to do the work, but he hasn't sufficient time; he is overburdened with cases; there is too much work put upon him.

MRS. SALLIE A. HEINEMAN, PROBATION OFFICER, CHILDREN'S COURT: No law can be laid down for handling any two men. They are all constituted differently. One probably should be

handled with kindness, whereas another needs more severe treatment. It is my opinion, however, that with kindness very much can be accomplished.

Reconciliations between husband and wife should always be brought about very soon after any trouble. Never allow the chasm to grow too deep. Very often it is a matter of mere stubbornness on the part of one or the other; lack of knowledge of a mother's or father's duty in the home is often the cause of a great deal of trouble.

With regard to the question "How often and when should the probation officer visit the homes of probationers and how may such visits be made of the greatest practical value?" I would say that in the initial investigation in order to become thoroughly acquainted with all members of the family an evening visit should always be paid. It is most essential to meet the family group; you will hear things from the mother or from the wife that may be given you to shield some member of the family. As a rule, the mother will shield the child or the wife will shield her husband. For that reason it is necessary to meet the other members of the family.

Too much care and caution cannot be used in opening a case of relief for a family. Probation officers should try every other source before applying to the charitable agency. In most of my cases I have succeeded in interesting outside private agencies. I do not care to ever introduce a family into getting relief. It is always too easily opened but hard to close.

MR. DANIEL J. WHITE, PROBATION OFFICER, CHILDREN'S COURT: The frequency of visits to the home depends on the family, the reasons for probation and other circumstances in each case. The time should be determined by the purpose of the visit; to see the boy; to see mother and father, and see that the boy goes to school, or works, or to his church. There should be firmness and a certain authority shown at first. Visits will be most helpful to probationers if a cordial spirit of team-work and co-operation between the probation officer and the family and boy can be secured. Visits should be suggestive in plans, stimulating to ambition, judicious in general counsel, and optimistic in spirit. In

order that a probation officer may help and advise regarding the management of household affairs and the expenditure of the family income, it is necessary to study the standards of living and the family budget, and to tactfully suggest remedies for economic weakness; to create interest in household administration by illustration, instruction and definite assistance in solving special problems; give advice with reference to proportions of income to be spent on various items; encourage home accounts. Mere scolding or fault finding without fully understanding the difficulties families encounter will do little good. If the family feel that the probation officer really understands what he is talking about and really has better ways to suggest they will listen to him.

A probation officer can aid in making the home more attractive by really knowing how; by showing his own and the homes of others who have succeeded under similar conditions; by criticisms based upon hygiene; by indicating the value of attractive surroundings on the character of boys and girls; by pointing out attractive home decorations as in store windows; by suggesting elimination of unattractive articles and advising purchase of cheap though pleasing substitutes or new articles. Dr. Ira S. Wile's brief creed is, plenty of air, which includes sunshine, as sunshine always gets in with the air if it is anywhere around; plenty of rest; plenty of water within and without; moderate and nourishing food; moderate clothing. Ask yourself if the child is coolly enough dressed rather than warmly enough. Plenty of play; plenty of common sense, which means the wisdom and the initiative to adapt all rules to individual conditions.

We are asked: "Under what circumstances and with what precautions should the probation officer seek charitable aid for the family?" After he knows that relief is really needed and will be accepted. If there is danger that the family will be likely to slacken their own efforts and the family needs long continued guidance, agencies with long experience should be called in. Relief should be given when family and relatives cannot cope with immediate pressing economic problems, or when a larger amount of money is needed to institute a plan for betterment than can be provided by the family. Relief should be given preferably in such a way as to keep the family off charity records. Aid as a loan at

times is helpful, but only rarely so. It is important to keep up the family responsibility at all times and not encourage visitation to charitable agencies.

We can help parents to exercise their responsibilities toward their children by giving advice to the fathers and mothers. Strict obedience to the commandments of God will make anybody walk in the paths of righteousness. If we love God we will not offend him, and if we love our neighbors we won't offend them. Arouse in the parents a sensitiveness to the effects of their acts on their own future, on others and on society.

SIXTH SESSION

Friday Evening, May 7

NEEDS AND HINDRANCES IN THE DEVELOPMENT OF EFFECTIVE PROBATION WORK

HON. LOUIS D. GIBBS, COUNTY JUDGE OF BRONX COUNTY: I was a strong and enthusiastic believer in probation, many years before I went on the bench, as a practicing lawyer in the criminal courts of record, as well as an observer and student of sociological conditions which are a part of the study of criminology and penology. I went upon the bench with the firm resolve that wherever consistent with the administration of justice and the interests of society, I would extend the benefits of probation to those charged with crime, and I have consistently followed that policy, so much so, that probably about 40 per cent. of all the defendants arraigned before me, convicted by jury, or by plea of guilty, have received suspended sentences.

As an example of my attitude in these matters, the record of April of this year discloses that of the fifty-five defendants before me, twenty-eight received suspended sentences. Last year we suspended sentence on 147 defendants and we are glad to say that we only had eight violations of parole and that the balance are doing well, working, taking care of themselves and others. Out of 199 cases before the Court up to the present time, which were disposed of by trials and convictions or pleas of guilty, seventy-four have been permitted to go out with judgment suspended, which makes about 40 per cent. or thereabouts. I think that it is a sufficient indication as to the attitude of the Court with reference to probation. On the other hand, we have never hesitated to impose the maximum penalty of the law in cases where defendants indicated by their past record, or by their crime, that they were so totally depraved, or so vicious, or so inimical to the interests of society that they were beyond redemption or the reasonable hope of redemption. Men with long records, charged with highway robbery or brutal assaults, or violations of the compulsory prostitution statute, almost invariably received the maximum penalty of the

law, because in my judgment, the administration of justice must be founded primarily upon what is for the best interests of society and while we must be open to reforms and while we,—judges and probation officers and all those identified with the criminal courts must have social imagination, and be animated by a large spirit of tolerance and kindness, yet there must not be permitted to enter into the administration of justice any sentiment that is maudlin or in disregard of the fundamental interests of society, order and respect for the law.

I am very much afraid there is a tendency in the public mind to-day to become somewhat, for the use of a better term, sentimental, with reference to crime and criminals. All offenders against the law should be treated justly and fairly, but with a strong and firm hand at all times.

I believe that the greatest defect of a proper probation system is the unsuitable probation officer, the probation officer who lacks the education, the common sense, the sympathy, the heart and the industry to make his work effective. I think that matter is being largely cured by the energetic and whole-souled action of the State Probation Commission, but there isn't any doubt in my mind, and I am speaking from practical experience, from having come in contact with many of the men and women in your work, that the probation system throughout this State and throughout the City is suffering from serious weakness, due to the fact that some of the men and women who are engaged in probation should never have entered that work. They are not cut out for it either naturally or any other way, and they lack the industry and energy to acquire those qualities which go to make effective probation work.

What is sometimes called probation work is not probation work at all. No man or woman can be a good probation officer who does not put his or her soul and heart and vitality in the work. It is not casual work; it is work that requires a good deal of religious zeal and enthusiasm, and a firm and abiding faith in God and in the good qualities which are to be found in the hearts and in the make-up of most men and women, charged with crime, and it seems to me that the important problem of the future, in the matter of probation work, is to get the right kind of men and women in the work and to drop out those who are unqualified for one reason or another.

Another hindrance to good and effective probation work lies in this, which is not within the province of the probation officer, but is the problem of the judge who places the cases in the hands of the probation officers. There must be a proper process of elimination at the fountain head, in order that the probation officer may do satisfactory work. If the judge is not careful and is unable by lack of knowledge of human nature or other conditions to understand what is a proper probation case, the probation officer is not responsible for the case if it falls down.

Another weakness of our probation system is that the probationers are put on probation for periods that are far too short. I believe in long probationary periods, because placing a man or a woman on probation implies a desire on the part of the Court to reconstruct and remould and reform the mental processes, the psychology, and in many cases, the very physical fibre of the person placed on probation. It is impossible to accomplish those results unless the probationary period is sufficiently long. I have placed several scores of defendants on probation for periods extending to five years and in several cases I have had the period extended to ten years, and very rarely is the probationary period any less in my Court than two years. I make them report often, in most cases every two weeks and in some cases that require particular attention I compel them to report once a week. The purpose is to keep the probationer under the guidance of the Court for a long period, such as will give an opportunity to remould, to some extent, the probationer's mental processes, habits, and general method of living.

Of course, you realize that with the present insufficient facilities to take care of the cases after they leave us, the work of probation officers cannot always achieve the desired results. It is all very well to put a man on probation for a year or two years, or longer, but what after that? What are we prepared to do for him after we permit him to go out on probation? I am sure that many a defendant leaves the Court with the firm resolve that he will walk the straight path, with the stern determination to redeem himself and to become a decent man, and yet owing to the pressure of economic conditions, owing to hard times, owing to physical weakness, owing to lack of education and proper manual training, and for

many other reasons, he is unable to bring himself up to the required standard. It seems to me that the agitation in the future with reference to probation work should be largely directed along the lines of providing sufficient facilities for taking care of the probationer after he leaves the court room, after he leaves our jurisdiction.

It is a very difficult matter to arouse public sentiment on this great question in which we are all vitally interested. It seems that the public can become and does become interested in many sensational things, but they become interested more slowly in those things that go for real constructive work.

I look forward to the day when public sentiment will become so aroused to this problem, and the minds and hearts and the conscience of our public servants will have been so educated, that there will be established a National Bureau of Probation at Washington dealing with probation officers and with the probation problem in general and directing throughout the States this work of reclaiming and bringing men back unto God and decency. I do not believe that there can be any question about the value of this work not only spiritually and morally, but practically, in dollars and cents. The national government is reclaiming arid lands; it has bureaus for the protection of hogs and plants and all those things that are not possessed of human souls and human aspirations and ambitions and desires; but thus far it seems to me it has woefully failed in this matter of reclaiming to society the men and the women who by reason of one condition or another have fallen and whom the courts with their limited facilities have been attempting to bring back to proper standards. Every man and woman and child in this country, as in every country on the globe, represents so much in dollars and cents, even from a sordid standpoint, and the government should have sufficient sense and social imagination to establish a national bureau for the saving of the flotsam and jetsam of our national life.

I venture to express the opinion that probation work should not be identified with volunteers. The only way to bring probation work on an effective plane is to have professional probation officers. Those of you who are volunteers and who are qualified by education and experience to do the work should be put upon

the payroll and should be paid and recognized as professional men and women. The average probationer feels an innate sense of resentment, in my judgment, against a man or woman that he knows is a volunteer worker, because he has that feeling in his or her heart which I know the poor of the East Side and other sections of this city have, when ladies and gentlemen from Fifth avenue and Riverside Drive, engaged in so-called slumming come looking in upon them and patronizing them and attempting to reform them when they do not need reform, when all they need and ask for is justice and a fair chance. A probationer will respond to the probation officer that is the probation officer of the court, and the probationer feels that the court is dealing directly with him or her. Very often they will not respond in that way to the volunteer worker. I am emphatically in favor of probation officers that are paid by the city or by the State or Federal government and that owe a direct responsibility to the appointing power. I do not believe in haphazard and irresponsible work in any line, and certainly not in dealing with the potentialities that are resident in the hearts of men and women.

Now, as a practical proposition I may also suggest that in my judgment good probation work depends largely on the original investigation that is made by the probation officer. That usually illuminates the path in the right direction, and it is of great importance that that original investigation should be made properly and efficiently and should go to the bottom of the conditions which surround the person about to be put on probation. It is very important that when the probation officer is making the investigation, making inquiries among the former employers and in dealing with the parents, relatives and others that he should create the atmosphere of the probation officer and not of the detective or spy or busybody. The probation officer should represent himself at once as being a probation officer and as being there in the interests of the court and the defendant, and that his business is not there to blacken the character of the defendant or to construct a moral alibi for him, but to find the truth and to make it known, and that the future of the defendant in the hands of the court depends upon the truth.

It is also of great importance that the judge in whose hands rests the liberty of the probationer should not remain out of touch

with that probationer. It is a wonderful feeling for that probationer, one that has a splendidly salutary and refreshing effect, to know that the court watches him, safeguards him and is willing to encourage and help him. I have made it a point since I have been on the bench to have regular probation meetings. We had several last year, and I intend to have quarterly meetings where every probationer is brought into court on a certain evening. The sessions last from seven in the evening until every probationer has been seen and spoken to by the judge. I had one meeting which lasted until twelve o'clock. The court was surrounded with the usual solemnity and dignity which is a part of the court. Every probationer was called up to the bench and the judge had an opportunity to look into the probationer's eyes and to judge in the light of his experience, first from the probation officer's report which was before him and from his general appearance and speech as to the subject's progress or retrogression. I would recommend that the probation officers use their influence towards having as many meetings as possible between the judges and the probationers.

I believe that probation work should be raised to the dignity of a profession, because I am satisfied that a good probation officer, man or woman, must have those qualities which go to make a good professional man or woman. He or she should have education, knowledge of human nature and some knowledge of the laws of psychology, criminology and sociology. The good probation officer should do plenty of reading along proper lines. There is a splendid amount of literature upon probation, running into books by the hundreds, that are to be found at the public libraries. The reports of conferences that have assembled and have been dissolved are still to be found upon the dusty shelves of libraries, and the noble words that have been uttered by the men and women at these conferences can still be read for the inspiration of the men and women following this work.

It is a profession, and it is one of which you may be proud and to which you may well give all the energy and all the powers that God has given you. By the same token I believe that the State or the city or the county, or whatever subdivision of the city or State it may be, should pay the probation officer a decent salary, a salary

that will repay him for the hard work that he puts in; it will give him heart in his work and an opportunity to lay aside a dollar for the future. There is too much of a tendency to underpay efficient work in the administration of government. In my judgment no probation officer should receive less than \$2500 a year. There is every reason why the judge and the probation officer should work together. There is every reason why the judge should do everything in his power to make the work and path of the probation officer easier, because he relieves himself of a great deal of responsibility and worry through and by the probation officer. Now, I say if the probation officer is deficient in the qualities that go to make a good probation officer, he has no business and no place in the service; and if he has those qualities that go to make the right kind of probation officer, there isn't any reason why he or she should not receive a proper salary consistent with the position, the responsibility and dignity of the office.

ADDRESS

MR. ARTHUR W. TOWNE, SUPERINTENDENT, BROOKLYN SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN: When probation officers are asked about their hindrances and difficulties, each one I suppose is likely to give a different name to his chief trouble — "Johnny Jones," "Mary Smith," and so on. Each one has some unmanageable probationer who seemingly baffles every effort at reforming him.

One of the biggest hindrances to successful work is the assignment to probation officers of persons temperamentally or otherwise unfit for probationary treatment. From the first they are almost hopeless. In the early days of the system when prisoners were placed on probation in a hit or miss fashion, this was of course one of the grave defects. Here in New York City there has been a marked improvement in this respect during the last few years. The judges are more and more appreciative that defendants should not be placed on probation without a preliminary investigation. This reduces the problems of the probation officers, but still they are often heavily overburdened with cases.

In the preliminary investigation of probationers a fundamental part is the personal interview with the defendant. In the rush of

other duties this is sometimes slighted. When properly carried on, these interviews are most illuminating as to the life history, the home surroundings, the disposition and outlook of those under investigation. Take a little fellow charged with some petty offense, and we find that he can disclose various important facts about living conditions in his home, about the habits of his playmates that are having a disastrous effect upon his character, and about numerous other factors which likely would not be discovered at all in an ordinary outside investigation.

Special difficulties are encountered by probation officers in their dealings with the feeble-minded. During the last few years the studies made of defectives have offered explanations as to why many of those placed on probation prove refractory and unteachable. With few exceptions the treatment necessary for the mentally defective cannot be supplied by our ordinary probation machinery. The load and the disappointments shouldered by probation officers can be materially lightened through the more frequent practice of having defendants examined mentally before they are placed on probation. Every court should have its alienist and psychologist in order to sift the hopeful from the hopeless.

Nothing is more weakening to probation, with respect to the way in which it is regarded by the criminal class in a community as well as by the population in general, than a lackadaisical, weak-kneed enforcement when violations occur. It is highly important that if a probationer is not living up to the conditions laid down by the Court the probationer should if necessary be brought back to the judge and have some penalty visited upon him. Nothing will discredit probation more with the district attorneys, with the police, with the business men and the substantial people of the community, and with the criminal element, than the failure to enforce the law in cases of refractory probationers.

Another difficulty in probation is that we deal not only with the individual placed under our oversight, as an individual, but also with the whole set of his surroundings and circumstances, the whole environment, the totality of causative factors and influences which have led him or her to become delinquent and criminal. There is hardly a child brought before the Children's Court charged with delinquency, but that we can find in the home conditions something wrong which accounts for the delinquency. And

outside of the home, we find bad neighborhood conditions. We must adjust our methods so as not only to deal with the person on probation, but also to try to separate the probationer from his environment, or else improve it.

I suppose there is nothing harder to do than to achieve successful results in the case of a girl in her teens who has become habituated to immoralities, who is known in the neighborhood as having been implicated in such conduct. If returned home she is likely to fall the prey of designing men and youths in the neighborhood. I have often felt there should be some transfer system whereby probationers from Manhattan might be sent, say, to Buffalo or Rochester, and some of the Buffalo and Rochester probationers might perhaps be sent here. That may sound a little Utopian, and yet in a few cases it is being done.

We should not try to work single-handed. In some particular part of the city we find plague spots. Certain streets have their dives, bad saloons, bad pool rooms, bad candy stores, bad individuals. As long as those places remain it is going to be hard to do effective probation work. The neighborhood must be cleaned up before we can accomplish what we want. But it isn't the function of the probation officer to attempt neighborhood or civic reforms as such. In every neighborhood we find other social agencies, public school teachers, truant officers, police, charities, dispensaries, and other preventive and constructive forces. There should be the fullest co-operation with other social agencies.

To promote such co-operation it is desirable that probation work be conducted on a district system; that is, that a probation officer be assigned to a particular district with which he can become thoroughly acquainted and in which he can work most tellingly. That hasn't necessarily anything to do with the system of centralization. I believe in a centralized probation system and in the centralized administration, but with or without centralization there can still be this district system.

Another hindrance in probation work, and in all kinds of social work and in all walks of life, is the very human tendency of taking things for granted. I recently rode on a train with a very successful business man, and he attributed his success in life largely to the fact that his first employer drilled him into never taking

anything for granted. Now there is perhaps no place where it is more important for us to observe this rule than where we have to do with the rights and liberties of other individuals. If we take it for granted that a man in court is no good, hasn't any chance of reform, simply because he is out of a job and shabbily dressed or has liquor on his breath, we may do that man a grave injustice.

If, when we are investigating, we take things for granted, if we believe whatever people tell us, there again we may do an irreparable injustice. When we are investigating and someone says a man drinks, find out how the persons knows that he drinks —“ Did you ever see him drink? ” “ Did you ever see him drunk? ” “ Who told you? ” Then if they tell who, go and see that person. In our investigations we should be just as careful to arrive at first-hand knowledge and to avoid hearsay as a judge on the bench. If it is injustice to convict a person on hearsay evidence, it is just as wrong to report to the Court concerning the reputation of a man when our knowledge comes from hearsay, unless we frankly tell the Court our knowledge is only hearsay.

Another of the difficulties of probation officers is their tendency to fall into stereotyped habits, to do their work in a perfunctory way. When we are crowded with work we are apt to make a quick, hasty visit and depend too much upon reports from the probationers and allow things to go through in a routine way. . We are apt also to fall into a perfunctory way of doing things through becoming case hardened, cynical and skeptical as to the possibility of reform. Probation officers, particularly those dealing with adult offenders, are perhaps as much tempted to get discouraged and pessimistic as any other class of social workers. A gentleman who has taken great interest in probation, once expressed the opinion that a person shouldn't be a probation officer more than five or six years lest he become mechanical and hardened and lack heart. Probation doesn't affect me this way; yet it is a possibility worth mentioning. Probation work, as Judge Gibbs has well said, shouldn't be done by anyone unless he has faith in the work, faith in the efficacy of probation and faith in the individuals on probation, unless he believes there is something good in these individuals that can be discovered and cultivated.

Even if our tasks as probation officers are at times hard, we should be encouraged and heartened through the fact that so much

of our work is of absorbing interest and of a humanitarian character, and valuable and important both to the community and to the individuals dealt with. Surely our troubles should not be half so discouraging to us as must be the troubles of the probationers to themselves. We are working with persons who are handicapped through heredity, education and environment, and many of them are not to blame for their plights. They are the victims of circumstances. It should be our aim to approach our work as a mission and an opportunity of service. Fortified by an intelligent understanding of the problems we are dealing with and by the resolution that we will devote ourselves to our duty fearlessly and unselfishly, we can look upon our hindrances and difficulties not as insurmountable obstacles but as opportunities for the exercise of our power of determination. If we strive hard enough we will succeed.

MR. CHUTE: I desire to say that we of the State Probation Commission are very glad at any time to have suggestions from the officers in any form as to how we can be of greater service and assistance to the officers in New York. Of course, we have a small force and have to spend a great deal of time in the backward sections of the State, developing and establishing the system, and cannot give very much time to any one city. We ought to and do give a good deal to New York, because New York City pays the taxes or a large part of them, and of course the State Probation Commission is your Commission as it is a State body, and we want to do all we can to co-operate further with you.

These meetings have been in the line of co-operation. We hope they may be even more so; that the probation officers may have more suggestions as to how they shall be conducted and may take more active part in conducting them. Six meetings are not enough and if the officers will get together and do more toward starting and running the meetings, more meetings can be held to greater profit to all of us.

HON. ROBERT J. WILKIN, JUSTICE, CHILDREN'S COURT: I want to say to the State Probation Commission through Mr. Chute how much we appreciate the opportunity that they have given us

in these meetings and the many meetings in other years, benefiting probation in general and us in particular. We should have more of these meetings, because I feel that although I have been so long interested in the subject, every time I come here I get a new opinion, something worth while. I believe that you probation officers, with the information that you are gathering every day in these homes, can give the judges who are on the bench all the time many points. I came here to listen to you. I am going to offer a resolution that a vote of thanks be tendered to the State Probation Commission by the probation officers of the City of New York who have had the opportunity to attend these meetings.

APPENDIX D

PROCEEDINGS OF THE EIGHTH ANNUAL STATE CONFERENCE OF PROBATION OFFICERS, HELD IN ALBANY, NOVEMBER 14 TO 16, 1915

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INTRODUCTION

The Eighth Annual State Conference of Probation Officers, called at the invitation of the State Probation Commission, was held in the auditorium of the State Educational Building at Albany on November 14, 15 and 16, 1915. There were two public mass meetings with formal addresses, and a luncheon at which addresses were delivered. The remaining three sessions were entirely devoted to informal discussions, presided over and participated in almost entirely by probation officers.

The conference was voted by many the most successful that we have yet held. Not all in attendance registered, but of those who did and whose names appear following the proceedings, 55 were probation officers coming from all parts of the State.

The plan followed for the past two years of placing the meetings in the hands of the probation officers, has been on the whole, successful, bringing forth extremely practical and helpful discussions.

The conference was notable for the brilliant and practical addresses which were delivered. Of especial value was the address by Governor Whitman, which has been printed in pamphlet form. The addresses also by Commissioner Edwin Mulready of Massachusetts, and by President Folks, and the addresses of Commissioner Alphonso T. Clearwater, Judge Joseph H. Beall and Dr. C. Edward Jones, at the luncheon were all of great value.

The addresses in full and the discussions somewhat abbreviated, follow herewith.

These annual gatherings of the probation officers of the State have proved of great value, both to the individual officers and as promoting the efficient and scientific developments of the probation system. Besides the opportunity for the interchange of experience and opinions, they furnish an admirable opportunity for the probation officers from various parts of the State to become acquainted. In this way co-operation between the officers is established and improved standards result.

A somewhat larger number of officers were sent by their respective courts to the Conference, having their traveling expenses paid. Many officers are still, however, attending these conferences at their own expense. The standard of salaries generally does not permit officers to attend this conference at their own expense, and the Commission has accordingly urged that for the benefit of the probation work in the respective courts, the expenses of officers ought to be paid to their annual conference. This has been an established practice in Massachusetts for some years, and we hope to see it become general in this State in the immediate future.

The conferences are arranged each year especially for the probation officers in the State, but all persons interested in probation are invited. It is planned to hold the next conference at Poughkeepsie in November, 1916.

PROCEEDINGS OF THE EIGHTH ANNUAL STATE CONFERENCE OF PROBATION OFFICERS.

FIRST SESSION.

Sunday Afternoon, Nov. 14, 1915.

PRAYER.

REV. GEORGE DUGAN, ALBANY: Let us invoke God's blessing. Our Father from whom the whole family in Heaven and Earth are named, we are met together this afternoon to hear what Thou hast to say to us touching the welfare of our fellow man, and the contribution that we may make to human health and happiness and to the highest living. Wilt Thou, our Father, bless these men and women, who, in the mind and the spirit of Jesus Christ, are approaching the great questions of human need and in His spirit, giving such answer as by the help of God they may give to the loud call that comes to us from these needs. Wilt Thou bless them as they give their time and their talents and their energies to this blessed work. We remember with great joy the enthusiasm of humanity for humanity which characterized the life of our Lord Jesus Christ. We are glad that down through the ages there has come that increasing clearness of call to the men and the women of this generation to do what by the help of God they may do, to answer the call on the whole front of human need. Now, our Father, bless we pray thee this conference. May it all be done in the mind and the spirit of Him who so loved men that he lay down his life for their happiness and welfare. May the gentle, loving, sweet, helpful spirit of the Man of Nazareth, the great physician of Galilee, come and fill our heart and the hearts of all who are working with him in his spirit for the welfare of those who are in need. We ask it in His name. Amen.

JUVENILE DELINQUENCY; ITS CAUSE AND EFFECTIVE TREATMENT

HON. FRANK E. WADE, VICE-PRESIDENT STATE PROBATION COMMISSION. Juvenile delinquency is a term generally used to indicate the commission of an unlawful act or a continuing state of misconduct on the part of a child under sixteen years of age. A delinquent child is defined in the statutes of many states and the definition is made sufficiently comprehensive to cover pernicious offenses, habits and associations of children. Juvenile delinquency in New York State is restricted to crime. Section 2186, of the Penal Code, provides that "a child more than seven and less than sixteen years of age who shall commit any act or omission, which, if committed by an adult would be a crime not punishable by death or life imprisonment, shall not be deemed guilty of any crime, but of juvenile delinquency only." Being limited to crime especially crimes committed by adults, ungovernable, habitually truant, vagrant and disorderly children do not fall within the designation of the New York statute. Such children are included in many of the statutes of other states and are generally classified as delinquents. It is this larger classification I assume that is to be considered in our discussion of the causes and treatment of juvenile delinquency.

The modern tendency has been to remove the stigma of crime from children under sixteen years of age. The common law fixed seven years as the age of responsibility. Repulsive as it seems to us now, for centuries under the old individualistic interpretation of responsibility children were placed on practically the same footing as adults. Until recent times children were tried with adults by the same legal processes, in the same courts and commingled with them in prisons of detention and confinement. The contaminating and evil effects of such methods became so offensive that when children's courts were first established resort was had to chancery procedure and the offending child was removed as far as possible from crime and contact with criminals.

The criminal taint is still clinging to a conviction of juvenile delinquency. Until such time as equity jurisdiction can be legally conferred on children's courts in New York State the privilege

of the court declaring children in need of the care and protection of the state contained in the New York City and Buffalo City children's courts acts and in the Monroe and Ontario county children's court acts should be extended to all children's courts.

Children should never be adjudged delinquents or in need of the care and protection of the State upon hearsay evidence, bad reputations and general impressions. Even a child punished in its own home should understand the specific offense for which it is corrected. When it comes to the correction of the child after the commission of the offense or offenses charged is established, all older form and penalties should be swept aside and the treatment be wholly constructive, not limited to the specific act or acts that brought about the intervention of the court, but directed to the improvement of the state or condition of the child at the time when it comes under public discipline.

The principal underlying causes of juvenile delinquency, it seems to me, are physical and pathological defects in the child, bad environment, adult contributory delinquency, truancy and faulty school systems, lack of the social and moral adjustment of the child of the immigrant and bad public methods in the handling and disposition of the offending child.

Many of the offenses of children result from physical defects. Impaired eyesight, nervous troubles, adenoids and other physical ailments and under-nourishment are responsible for much of the waywardness in children. A large proportion of the delinquent children are mental defectives. This is often an hereditary condition transmitted from mentally defective, diseased and alcoholic parents. These children have not a fair chance in life and easily yield to temptation. They constitute a large and increasing class.

Bad environment is one of the most productive causes of delinquency in children. Children born and bred in the slums and tenements of big cities are in large numbers learning criminal habits. Their young lives are abnormal and distorted. They are exposed to the worst evils and vices before they have reached years of discretion and self-protection. The effect of evil environment on children is not confined to the cities. Degraded conditions of rural life also contribute toward delinquency. Children in the country

districts are often unrestrained and permitted to run at large and associate with the lowest characters. The product is the bad country boy who lands in the county jail, the wayward girl who generally drifts to the cities, and the village drunkard and loafer. At the request of the National Probation Association a study is now being made by the Federal Children's Bureau into juvenile delinquency in several of the rural sections of New York State.

Adult contributory delinquency is recognized as one of the most productive causes of the delinquent child. Many states have laws making adult contributory delinquency a criminal offense. In a study which I made a number of years ago on this subject I wrote to the magistrates of New York State requesting a statement of the percentage of their cases in which the magistrates considered the conduct of the parent as responsible for the delinquency of the child and in the replies received the proportion was estimated at from fifty to seventy-five per cent.

The lack of social and moral adjustment of the child of the immigrant is responsible for a great deal of delinquency. Immigrants living in large masses in cities, many of them unable to speak the English language and out of touch with American institutions, are not able to properly advise, control or discipline their children born or raised in the new conditions of life. The want of proper sympathy and understanding between parent and child is raising havoc in the congested immigrant districts. The parents do not understand American social conditions and the children lose respect for them and break loose from their authority. The immigrant is generally a decent, law-abiding person. The delinquents and criminals among them are recruited mainly from the children who are born or raised in this country.

Defective methods in the handling and treatment of children under correction tend to increase rather than diminish delinquency. The mingling of children and adults in places of detention and the failure of the state to enlarge and complete the training schools for boys and girls are contributing causes.

Society is confronted by one of its most difficult problems in the effective treatment of juvenile delinquency. Until more preventive methods are adopted there will be little or no impression on the

increasing number of delinquents. A beginning has been made in this direction. The public is now providing free treatment for the physical defects of children in some of the public schools. Their eyes are treated, adenoids removed and lunches furnished in proper cases. A special study is made in some localities of mentally defective children. Tests are in use to discover the mentally defective in institutions and schools. Unfortunately these methods are too restricted up to the present time for large results. Children unfitted by their mental condition to behave or take care of themselves in society should be committed to custodial institutions and not to correctional institutions where they impede methods of management and discipline and are entirely out of place.

Improvement in social and economic conditions come about slowly. The worst evils of the tenements and slums should be attacked and more relief furnished to the unfortunate children living in these districts. More public parks and playgrounds and more opportunity for a free and normal life should be furnished to these children who will some day become citizens. Bad conditions in rural districts should also be corrected. The whole problem is none too large for effective treatment when once the public recognizes and understands its great necessity. If conditions are not improved sooner or later the level of citizenship and community life will be lowered and degraded.

The adjustment of the first generation of the immigrants to conditions in this country seems a difficult process. Their unfortunate congestion creates little foreign communities from which children go back and forth in contact with evils and vices without adequate restraint and education. If these communities could be more scattered and if more social work were done among them better results would be obtained. No well defined plan of campaign for attacking conditions is proposed. Possibly it may be the peculiar mission of the church to reach this class of our population and correct the manifest evils which are resulting from lack of harmony with our social institutions and from lack of parental understanding and control.

Good schools furnish effective treatment for delinquency. Vocational schools should be established. More attention should be given to the individuality and the defective conditions in the child.

Special grades should be organized for backward and defective children. The truancy laws should be more rigidly enforced. The educational department should assume this responsibility. The principal, teacher and truant officer should each exhaust every resource of the educational department before the child is brought into the children's court.

The children's court, however, is the great clearing house for the correction of the delinquent child. It is at this point when the child has passed beyond the control of the home and the school or has committed some serious offense that the authority of the state is invoked for its discipline and reformation. There is no more effective agency for the treatment of juvenile delinquency than the juvenile probation system. An efficient children's court with a well organized probation staff corrects and improves a large proportion of the children coming under its jurisdiction without committing them to correctional institutions.

A recent study made by the State Probation Commission shows that from 1897, when complete figures became first available, to 1914 the number of delinquent children in children's correctional institutions decreased, although during the same period the population of the state increased approximately forty per cent. The total number of children in correctional institutions in 1897 was 3,322. There was an increase up to 1904, when the total was 4,430. Since 1904 the population of these institutions has decreased steadily until at the end of 1914 the number was 3,311 as compared to 3,322 in 1897. The probation system was first applied by law to children in 1902, but was not used to any extent until 1904, since, as we have seen, the number of children in correctional institutions began to decrease. When the State Probation Commission was established in 1907, 556 children were on probation. On October 1st, 1915, 3,034 children were reported on probation in the state, an increase in the use of juvenile probation, of over four hundred per cent in eight years. Almost six thousand children have been placed on probation during the year ending September 30, 1915.

The benefits resulting from visits of probation officers to the homes of children under probation where intensive work for the

improvement of home conditions can be done, have been emphasized in the publications and recommendations of the State Probation Commission. The statistics during the past year show an average of at least five visits made to the home of each child on probation, exclusive of the visits for the preliminary investigations.

The prospects for the development of juvenile probation were never brighter in New York State than at present. The Monroe County children's court act placing jurisdiction in the County Court and providing for a chancery-like procedure has been extended to Ontario County and its adoption by other counties is under consideration. A marked advance has been made in New York City where excellent results have been accomplished and where an illimitable opportunity awaits the extension of the system. The enactment of the Mills bill at the last session of the legislature establishing an independent children's court in New York City and increasing the number of judges from four to five, the high qualifications of the children's court judges, the opening of the splendid new Children's Court building and the proposed reorganization of the juvenile probation system open up a new era in juvenile probation work in that remarkable city. We are moving forward fast on safe and sound grounds which have been tested by years of experience, and the future holds great possibilities in the success and growth of the juvenile probation system.

Juvenile probation is not proposed nor advisable for all cases of delinquency. It is especially successful in correcting early offenders and children whose environment and associations do not preclude their improvement. Children who fail after they have been reasonably tried out on probation, who refuse to respond to repeated efforts in their behalf, who persist in vicious habits and evil associations should be committed to correctional institutions. Girls who have become victims of vices and have fallen under the controlling influences of bad men and women are not as a rule good subjects for probation.

In any comprehensive plan for the effective treatment of juvenile delinquency the training school must be accorded a large place.

Training schools for boys and girls erected on the cottage system, equipped with vocational classes and a school in letters as at Industry and Hudson, accomplish excellent results. Unfortunately the training schools in New York State are overcrowded, particularly the training school for girls at Hudson and large numbers of girls unfit for probation must be left in their bad environment. At the meetings of the New York State Conference of Magistrates and on occasions when persons familiar with conditions of juvenile delinquency in the state gather together the urgent necessity is expressed for the enlargement of Hudson and for the erection of a training school for girls in the western part of the state and for the completion of the training school for boys at Yorktown Heights.

The responsibility for juvenile delinquency rests principally with society. The child is in most instances the unfortunate victim. The future welfare of the state is bound up in the child. If the child is kept normal, healthy and intelligent our political and social institutions will be safely preserved. The public can make no more profitable investment than the adoption of preventive measures for the moral and physical safe-guarding and protection of the child and the establishment of efficient children's courts with well equipped probation systems and the erection of adequate training schools for boys and girls on the cottage plan.

MEDICAL AND PSYCHOLOGICAL ASPECTS OF DELINQUENCY.

DR. CLINTON P. MCCORD, MEDICAL INSPECTOR OF SCHOOLS, ALBANY: It is indeed a pleasure to be introduced to an audience of this character by one who has stood for the principles that the chairman of this meeting has stood for in this state, and it is a pleasure to talk to approximately two hundred people who are engaged in perhaps the most humanizing phase of social welfare work that we have. It is a pleasure to talk to people who are technically trained in their particular line, because what one says is less often misinterpreted than is often the case in speaking to a general audience.

First, let me briefly state the two general causes of insanity, and I do that not because we want to confuse this question of de-

linquency with insanity, but because the same two general principles apply in considering the background of delinquency. The two general causes of insanity are these: first, a defective nervous system, and second, some stress or strain. In other words, there may be a few people in this audience who have the type of nervous system upon which an insanity might be grafted, to speak roughly, but those persons by reason of their environment or habits of life may be free from stress or strain necessary to bring that nervous system to the breaking point. For instance, some person who has travelled along for some years in life without knowledge of his defective nervous system, is thrown into unusual or severe circumstances. I remember a newspaper item about a year ago which told of a man on one of the Hudson River Day boats who had seen a woman fall overboard and this man at once went into an attack of acute mania. You and I might have stood on the deck of that steamer and have seen a hundred women and children destroyed in most horrible fashion and yet we would not have suffered the nervous breakdown that man did. In other words, he carried with him the powder which only required the match.

In general, insanity depends on those two conditions, defective nervous system, plus stress or strain. In some such way we can draw a parallel in this matter of delinquency. Of course, when we go into the study of causes of delinquency, of any particular case of delinquency, we must consider antecedent conditions; that is, heredity; question the habits of life of the father and mother — antecedent conditions. Second, we would have to consider the offender himself; that is, his physical makeup, his psychological makeup; and then last, the nature of the crime he commits. In studying a delinquent he should be studied from those three sides. Under the last point we would study the type of crime he has committed or delinquency of which he is adjudged guilty, by determining the class, as thieving, sexual offense, etc., and in accordance with which type it was, we would determine something of the cause of that lapse. That is the background I want to place before you.

In the old days, Lombroso, whose name is familiar to all of you, approached the subject entirely from the physical side. He measured and weighed and tested people in all sorts

of ways, physically. He took measurements of their heads and examined their ears and eyes, in an attempt to discover a physical type peculiar to the criminal. Of course, today we know that there is no criminal type so-called; but at that time he believed that he had discovered the physical type and he formulated certain principles with which you are familiar. Today we know that probably with the single exception of the fact that criminals as a class are smaller than normal persons, these so-called stigmata of criminality, as they were originally called, are merely stigmata of mental deficiency, and that the reason we find so many juvenile delinquents and adult criminals bearing these various stigmata is because so large a proportion of the people within these anti-social groups are mentally defective.

As to the physical correction side of the question. Personally, I have read a good deal about the delinquent boy who was made so because of enlarged tonsils and how, after the tonsils were removed, wonderful reformation occurred in his case; how a very bad boy was made very, very good by virtue of cutting out adenoid tissue in the throat. The theory has been advanced that decayed teeth and a variety of these minor physical defects figure as causative factors in delinquency. Personally, I have been very skeptical so far as enlarged tonsils and adenoids and a few of those minor defects are concerned. I do believe, that cases of defective vision in juvenile delinquents may figure. When that defective vision has been corrected it has brought about wonderful changes in the disposition of the child. This is because defects of the eye represent a great stress and strain on the nervous system. Any of you who have suffered from bad vision until you have had proper medical attention, know how nervous and upset you can be from a bad eye condition. I have seen great improvement in some children in the special classes of our city, even to the point of restoration to the regular grades, after they were fitted with proper glasses.

Poor nutrition has also been advanced as a cause of delinquency, and I must say that I have seen children poorly nourished in whose cases I believe poor nutrition was probably the chief factor. It usually comes about in this way though. The poor nutrition lowers the vitality of the child; it lowers his animation, and he

slows down in his school work; becomes disgusted with his work, and begins to play truant; and he comes into the field of delinquency by way of the truancy route. Tracing it back, primarily you may say that is a case of delinquency which was caused by poor nutrition, but ordinarily, outside of that type I don't feel that poor nutrition figures especially. It is true many of our delinquents are poorly nourished, but that is like what some judge said out in one of the Middle Western States — that he had never found juvenile delinquents amongst boys regular in their attendance upon school. So it is with poor nutrition. Possibly there are many juvenile delinquents who are poorly nourished, but I personally do not believe, and we haven't such evidence from studies such as Dr. Healy has made, that poor nutrition, *per se*, figures very much as a causative factor.

Phymosis has been advanced, and we have a judge in one of the Western States who has issued a pamphlet, telling how delinquent boys after circumcision have made very remarkable social recoveries. While I have seen the need of circumcision, I have seen it in many of our children. Probably some of you people have seen children, who, in their earlier lives—three, four and five years of age,—have been extremely nervous and after circumcision the nervous condition has been entirely cured; so occasionally that figures in that way.

Organic heart disease is probably the most significant physical defect that plays an important part in causing delinquency. Dr. Healy has had a number of very interesting cases of juvenile delinquents, the responsibility for whose condition has been placed at the door of organic heart disease. In other words, the bad heart condition has so upset the nervous system that the boy is in an unstable nervous condition and is the victim of any stress or strain which may come along to exert itself or its influence upon him.

So we are coming more and more to feel, excepting in the fashion I am going to outline shortly, that the physical side plays a minor part.

Now, we come to the psychological side of the question, and the picture is entirely different. Of course, we must remember the fundamental principle that the psychological depends on the physical to the extent that all mental processes depend upon nerve activ-

ity. The neurological principle, no psychosis without neurosis, no mental act or thought or effort, no mental processes without a corresponding activity of nervous tissue must be kept in mind. If your nervous tissue is in bad condition, you get a faulty mental act; the process is reflected in acts which may be anti-social in character, so that to that extent we must think of the psychological as depending upon the physical.

When we consider the psychological, pure and simple, what do we find? Let me read to you some of the figures, all of which I cannot carry in my head, the results of examinations of delinquents. An examination in Scotland of 4,700 delinquents showed 53 per cent. were feeble-minded. An examination of the inmates in the Minnesota Reformatory showed 54 per cent. were feeble-minded; Lyman School for Boys at Westboro, Mass., 28 per cent.; Elmira Reformatory, 70 per cent. I am not sure of the character of the examination that was attempted to determine the mental condition of those children. The Hoyt Boys School, 70 per cent. The Rahway Reformatory, 46 per cent. The Glenn Mills House of Refuge, 72 per cent. The Jefferson Reformatory in Indiana out of 1,000 inmates, representing a study covering a period of two years, there were approximately 50 per cent. That gives us some idea of the mental makeup of the children who have reached reform schools: Dr. G. G. Fernald reported on a Massachusetts institution and the figures are something like 30 per cent. feeble-minded, and this investigator's experience in juvenile court work seems to indicate that a considerably larger percentage of juvenile court cases are feeble-minded.

Because I bear especially on that one phase, do not feel I am blind to the other side of the question. You have the relatively large number where other causative agents figure. It isn't the feeble-minded boy, the defective-delinquent, that requires the intensive study; it is not a particularly hard task provided you have a few hours of time and the services of a wide-awake physician to determine the mental deficiency, even of some of the higher grade cases, but the problem lies with the 30 some per cent. of children with psychopathic constitutions who are coming before our juvenile courts with fairly normal intelligence, but with the nervous instability of adolescence. We see them also in our public schools.

They ought to be receiving special study from both sides. They ought to be receiving special kinds of training in the public schools. Special classes, schools for truants and incorrigibles, so-called, are largely today supplying the kind of training that these children should have. The John Worthy School in Chicago, practically filled with delinquent children, was made the field for special study. These children showed profound disorders of the nervous system, many of which could not be cured without some extended treatment, but all of these cases had been thrown into the general hodge-podge. Truancy and incorrigibility, so-called, are not entities, they are simply names that have been given really to symptoms of a far more important underlying condition.

Epilepsy is a mental defect that is, according to the Chicago figures, occurring in 10 per cent. of all juvenile court cases, and epilepsy is costing this country more in dollars and cents from the standpoint of crime than almost any single disease. Only 8 per cent. of the insane are violent or a menace to the community so far as doing injury is concerned, but epileptics are particularly obnoxious in that respect and some of our most bloody murders have been committed by epileptics. The early stages of dementia praecox in some of these adolescent children must be thought of. These children coming before juvenile courts represent a variety of nervous conditions every one of which should receive careful study and proper treatment which should be based to a large extent on recommendations from some person schooled in the knowledge of what prospect these cases have so far as cure is concerned. In Chicago, as you all know, a Psychopathic Institute has been established in connection with the Juvenile Court. Judge Pinckney, a very wide-awake and broad-minded man, has frequently expressed in both his annual reports since the Institute has been established that his conscience would not permit him to dispose of a large number of the recidivists among those juvenile delinquents without the advice of Dr. Healy who sits with him and gives him prognostic information concerning those cases. In Seattle, somewhat the same arrangements are in effect, and in Boston. Germany has had it for some years. Of course, Germany has been far ahead in the matter of its approach; they have gotten

away from the old idea of punishment to suit the crime and have adapted it more to the individual, as we are coming more and more to do.

There is just one thought in closing that I want to leave with you. The general subject for today speaks of the treatment of these causes. Well, if the physical figures in the kind of treatment, a consideration of the physical is in order; so as a routine procedure physical examinations should be made and corrective measures should be applied where disease conditions are found to exist. So far as the psychological is concerned, mental treatment should be instituted. Special class work in the public schools is a force; and someone even has suggested religious instruction of a selected type. Personally, I think we have to handle very carefully religion with adolescents, especially, and I am skeptical as to the value of it with these cases. I do not believe that praying, in a majority of cases, does much good.

The last point—institutional training. Of course, as you know, our institutions, our reform schools, are filled with the feeble-minded. In other words, the institutions which should be for pure delinquents are filled with defective-delinquents, and until they are separated and proper institutions are provided where the feeble-minded can be placed, until then, we shall not be able to approach the problem of the education of the delinquent in the way it should be approached.

A questionnaire was recently sent to superintendents of reform schools and 75 per cent. replied to the question, "What outline, what ideas, have you for the training of pure delinquents," and 75 per cent. confessed they did not know. In regard to the feeble-minded we do know. The one fundamental thing is permanent custodial care, happiness while they are being cared for, and the lines of simple hand-work with which you are familiar.

The recent Committee on Crime in Chicago in outlining its suggestions in reference to the requirements for a probation case, mentioned as one point (they were dealing with adult probationers—it applies to juveniles as well) that mentally deficient cases were not cases for probation; and you all readily appreciate that they are not. Here you have people with the bodies of sixteen-year-old children, but many times with the minds of children of

five, six and seven years of age and with reason and judgment undeveloped. We cannot expect anything in regard to those cases from probation and we might as well face the thing and insist as probation officers that such cases be not assigned to the probation worker. Of course, where a psychopathic laboratory is a part of your juvenile court, those cases are never assigned, but remember, when you are dealing with these higher grade defectives it is a matter of expert judgment and intensive study as to what is best to do with these children. You find differences of opinion on that, but remember that Emerson said, "The most disagreeable truth is a safer travelling companion than the most pleasant falsehood," and it is question of the open mind in considering these cases as they come before the juvenile court.

Consider them in a scientific fashion, and where facilities are available, as in Chicago, or where they should be made available, which is in every large center, decide as to the mental constitution of these children and outline a program to fit each particular case. Then in the course of the next few years if that movement spreads sufficiently, we won't find our reform schools filled with cases lacking judgment and reason, cases lacking constructive imagination, cases wholly incapable of profiting by any type of moral instruction, because a moral act is the direct outgrowth of intelligence.

You people, as probation officers, have a great field of work in educating in many cases, I am sorry to say, your judges, to the point where they are willing to deal with these cases on the basis of your investigation, providing that investigation is scientific. And you, as probation officers, if you have not acquired a working knowledge of social psychology, get it, for it will be your single, biggest instrument for good.

THE ALBANY CHILDREN'S COURT.

HON. JOHN J. BRADY, POLICE JUSTICE, ALBANY: Before beginning my address, permit me to say that I consider it a privilege to address a gathering of this character. Although I have had 18 years' experience in dealing with the unfortunate class that comes into the Police Court, I have not until today had the privilege of talking to a gathering of probation officers.

I am going to speak to you as plainly as possible, and it will not be a very difficult task for me to be plain because even though I were able, I see no reason why any of us should attempt to climb up to the sky or live in the clouds when we are handling a question like juvenile delinquency. The excellent talk of Dr. McCord surely has enlightened us. But I think I prefer for the present to proceed along lines of elimination. I do not care to burden myself with too many details or too many means or ways of accomplishing work in this particular field, because by having too many irons in the fire I may not succeed in doing anything. I have the greatest respect in the world for the opinion of our medical fraternity but theirs is a new feature in this kind of work ; it has only come in recent years to us. Perhaps so far as we are concerned, where ignorance is bliss it is folly to be wise. But I am quite sure that the future, so far as delinquency is concerned, will not compare with the present if all these later day methods are applied and if they are of as much value and advantage as we have reason to believe.

The Albany Children's Court does not exist under authority of the law. There is no Albany Children's Court ; there is an Albany Police Court. The Magistrate of the Police Court holds children's court, as it is styled, because the law permits and directs him to. In the cities of New York, Buffalo and Rochester, and some other places in the State, there are separate Children's or Juvenile Courts.

Years ago, before the law began to be changed in the direction of the welfare of the delinquent classes, there was in operation in the City of Albany, perhaps in a crude way, a system which as we look at it now, comparing it with the present, was somewhat akin to the present system as employed throughout the State. The first law which was instrumental in calling the attention of the judge to the necessity of dealing carefully with the child delinquent, I think, was passed in 1892. It was in a section added to the old Penal Code which required that children's cases should be heard separately ; that the magistrate should not permit the child to intermingle with adult offenders. After the passage of that law there was not for some years any marked change so far as the juvenile delinquent was concerned. With pardonable pride I refer

to the fact, therefore, that for years before that we heard the child's case separate and apart from the adult offender's case.

We did not commit the child to jail, although there was no place of detention, provided by the law. I have never sent a boy to jail in all my eighteen years' experience in dealing with children. It is needless for me, in a gathering of this character, to say why I do not send a boy to jail; and yet even now, while we are here discussing these questions in this State of New York right nearby us, in several places children are being sent to jail for minor offenses. And why? Because there has not been provided a place by those who should look to this phase of the work. In Albany from the very beginning of this work for juvenile delinquents fortunately we had a place of detention provided through the agency of the Humane Society. Even today, there is not in Albany a house of detention that is directly supported by the municipality of Albany, but the Humane Society with its successful institution fills the want.

I said to you a moment ago that years ago we separated the child from the adult offender. Before there was such a thing as a children's court, we, in this city set a day apart in each week for the hearing of children's cases. On that day or a portion of that day the magistrate would devote all of his time to the hearing of children's cases. It was done in a separate room and under such conditions as to prevent the child from coming into contact with the adult offender.

The child is brought before the court today in Albany; the complaint is read to him; the probation officer is present; the case is set over for a hearing on Saturday. Saturday is juvenile court day in the City of Albany and has been juvenile court day in this city for years. If the child were to be arrested tonight; if the parent does not call for him, he is taken to the Humane Society detention home and kept until the next morning. The next morning you will find the child in the juvenile court room, as we call it, a place separate and apart from the court room in which the adult offender is arraigned. The first case that the magistrate hears is the juvenile case. Who do I find there in the court? The male probation officer and the woman probation officer. The charge is read; talk had with the child and his case is adjourned until Sat-

urday. Saturday morning we hear this child's case. What takes place in the meantime. The probation officer investigates the case and on Saturday morning, on my desk you will find a report of that child's case. His home surroundings, if it is a new case, and everything that will be of value to the magistrate in order that he may properly dispose of that child's case is reported on. Then we use probation if the case requires it. We have been prompted in our work along such lines because of the fact that it appeared to be the only proper means of treating the child delinquent.

In considering what to do in order to bring the child from his state of delinquency to a better condition, we have found that by a combination of the church, the home and the school, we could surround him with the best influences for good. I believe you can do much by praying with the child, if that is the way you want to put it. I believe every child should be reared in the faith of his fathers and I believe that child and adult may best be reached by aid of his church when all other influences fail. So, we require for each child a report from his home, a report from his school-teacher, a report from a Sunday School teacher, if he attended Sunday School, a report from his pastor, minister, priest, or rabbi. When that child is placed on probation there goes out from our court letters to each one of these people urging them to join with us in an effort to do something for that poor unfortunate child, and we have found that this system has been most beneficial.

While I believe it is true, because the physicians tell us so, that considerable delinquency is due to mental and physical defects, I still believe, after eighteen years' experience, that delinquency is due to lack of home training. Let us instead of taking hold of this unfortunate child and spreading him out before the world or throwing him upon the world, calling the attention of everybody to the fact he has some minor failing, let us protect him; go into the homes; right the home; get rid of the drunkenness and other causes of delinquency of this generation, and the next generation you will have a new class of people. Your probation work won't tell to-day or to-morrow. You people are not going to get the results of your work this year or next, but perhaps when you have passed and gone, the next generation will turn to your memory and thank you for the work that you have done.

I have seen few cases where I could not honestly say that for the child's delinquency the parent was at fault. If we could only do something to change this condition of things, to bring about better home conditions, I am satisfied that we wouldn't have to burden ourselves with so many fads and fancies; I am quite sure that we would find our children much better. We must admit that the home is the surest, safest and most powerful means for the proper training of the child. Here the child is taught parental love and obedience, with these the child will have all that is necessary so far as regard of law is concerned. You show me the boy or the girl that loves his or her parents, and I will show you a boy or girl that is qualified to be a good citizen; and the contrary is true. Show me the boy that has lost his love for his mother and I will show you a chap that probation won't help. The only place good for that boy is an institution, let it be of correctional character or otherwise, but a place where he will not contaminate the morals of the other children.

The home is the place to which we should all turn our attention. The home government is but a lesson for the child for his method of living in after life. The father, the presiding officer if you will, and the mother his assistant, or visa versa, just as you please, with the rules and regulations in the home obeyed, the opportunity for delinquency disappears. The children of the street are the delinquents, and why are the children on the street? Because the parents do not care whether they are on the street or some place else. A few cases I will admit come from good homes, but they are so few they are scarcely worthy of consideration.

Did it ever occur to you when you see these children in court, have you ever noticed as they come, frightened, weeping and trembling before our courts, for some childish prank, that they really do not know what they are there for? In case they do do something that is wilfully wrong, when the policeman tells them they have done wrong they are disturbed; more so when the magistrate speaks to them. You will hear the expression, "Oh, I hope my mother don't hear of this." The child tries to save his mother from the knowledge of the fact he has done wrong. Once the mother or the parent learns that the child has done wrong and the child

comes before the parent without proper correction or proper management, without an effort on the part of the parents to do something to impress that child with his wrong-doing, immediately the child has passed into a condition which begets more serious offenses if opportunity presents itself. Failure on the part of the parents to thoroughly impress their children with the fact that the law has been violated, with the fact that they are wrong-doers, simply aids the child in his wrong doing.

We use in our city what we call the parole system. This applies to the adult's case. The parole system was brought about some years ago as a result of observation and investigation of persons who neglect to provide properly for wives and families. We came to the conclusion that there were some men, who had the responsibility of the care of a family, who would be quite willing, if opportunity permitted, to be relieved of that responsibility and to cast the responsibility upon somebody else, even though the court saw fit to commit them to jail as disorderly persons, all of which would mean in a great many cases that the unfortunate wife and family would be dependent upon the community. So as a result of some study we brought about this system which we named the parole system which simply meant that we placed these men on their honor. We have a talk with them; try to point out what their responsibilities are; try to encourage them and help them to get work and ask them to report to an officer that we call a parole officer. This, of course, is now called adult probation, but this system was introduced before probation was brought about. While the average has not been more than one hundred cases a year in this city our records show that since this system was inaugurated, about \$70,000 has been paid to families as a result of promises made in court. A portion of this sum we receive in court; about \$3,500 being collected each year.

The Probation Commission surely is to be commended for its efforts in behalf of the probation officers and the magistrates for giving us such opportunities of becoming somewhat better informed upon the work that we daily engage in. We all may do some work that will be worth while if we continue to be patient, if we continue to be just and fair with the unfortunate class of persons we meet. I know of no better means of helping some of

the unfortunate than by the application of a little kindness. All the world is not bad; there are bad people in the world and there are good people too, and if all the good people in the world were to stop and think of their less fortunate brothers and sisters, if all the good people in the world were to extend a helpful, loving hand to those less fortunate than they, how much better the world would be.

SECOND SESSION

Monday Morning, November 15

NEW METHODS OF WORKING WITH PROBATIONERS

MR. BERNARD J. FAGAN, ACTING CHIEF PROBATION OFFICER, CHILDREN'S COURT, NEW YORK CITY: I cannot imagine a probation officer being successful with his cases if he at the beginning does not attempt to win the confidence and friendship of his probationers. I do not mean that we are to begin with any degree of familiarity between the probation officer and the probationer, because familiarity, as you know, breeds contempt; there is a difference between that and friendship. Friendship breeds love and kindness which familiarity does not. Therefore, we could go right through this program and work out some very helpful suggestions for us in our work as to what is a proper way to win the confidence and friendship of our probationers. One of the ways is by introducing them to clubs and various other co-operative agencies and by special attentions. Personally, I am not an admirer of the group system of reporting. I feel that more effective work can be done by home visits; but I realize that an officer with ninety or one hundred on probation who attempts to get in touch with his cases at least weekly, cannot make that number of visits and attend to his other duties. Therefore, what is the best way to obtain the desired results under a reporting system? How can the reporting of probationers be made more valuable? Any of you who has witnessed the system of reporting has the weakness of the system forcibly brought to his mind, as the probationer answers the questions put to him, suiting his answer to the question in every case. "Johnnie, have you been good since I saw you last?" Johnnie says, "Yes, sir." "Have you been to church regularly?" "Yes, sir." "Have you been to school?" "Yes, sir." "Are you working steadily and giving your money to your mother?" "Yes, sir." Now, the question is, what way have we to check up those various "yes, sirs," or "yes, ma'ams"?

MR. W. E. MOUNTENEY, COUNTY PROBATION OFFICER, WEST-CHESTER COUNTY: Before I was actually appointed probation officer, I began to work out in my own mind some of the ways in which I expected to accomplish the results I wanted to accomplish. Among other things I thought of the furnishing of my office. Of course, a desk and chair, a typewriter, but being a minister at that time I thought I ought to have a few gospel texts and decided on some mottoes. I have been modifying that, and I believe I shall be able when I get my new office to put into the furnishing of the office that which will give me the key to begin the winning of the confidence of the probationer. I propose to have mottoes on the walls of my office and things of that kind, but I intend to put up some other things, like pictures of the fruit of the State, and I shall bring into the office little objects of interest, so that when a boy comes in he will be mousing around the place and his attention will be fixed on one thing or another and, I think, in that way I shall be able to get into contact with him and establish a point of contact, and in that way begin to win his confidence. That thought was evolved not out of probation work, but out of twenty years' of association with boys. I have found if I wanted to get at his heart I had to find the thing the boy was particularly interested in. We have got to make short cuts in our work and establish a point of contact by having in the office something that will reveal the boy to us.

There are some cases I cannot delegate; I have tried it over and over again in my work among boys and I found a great number of cases I cannot delegate, and I must deal with them alone. In every case we must keep close touch and have supervision of what is being done.

I was amused at Mr. Fagan's demonstration of those questions and answers. "Yes, sir"; "No, sir." They all answer that way if you go at them that way. Approach him through someone or something else. Ask him about last Saturday's ball game to find out if he was where he should have been or not. I find I have to go out once in ten days or two weeks and spend the county's money, when I cannot have the case come to me.

MR. GEORGE EVERSON, SECRETARY, CRIMINAL COURTS COMMITTEE, NEW YORK CITY: Regarding the subject of the overworking of the probation officers, there are two ways, I think, of solving the difficulty. First, is through publicity. I think that the probation officers, as a rule, do not take the public into their confidence as much as they should. I think that probation officers and probation work should court publicity, newspaper articles, etc., to awaken the public to what they are doing. It isn't very difficult for the police department to get adequate appropriation, but when you seek adequate appropriation for probation officers, you find it quite difficult, and the reason is that there is no concerted public demand for probation work, and the way to get a concerted public demand for probation work it to let the public know what you are doing.

The second way is to work with the people that hold the purse strings, the Board of Estimate and Apportionment in New York City, the various financial powers in the other cities. Keep everlastingly hammering at them for added appropriations for more officers. It is decidedly impossible for one probation officer to handle one hundred cases and to do it well, and it discredits the work to have it done in a slipshod and haphazard way, simply because the probation officer has too much to do. Therefore, to protect your own work, you should be all the time hammering at the public and at the public officials for more officers to do the work that is assigned to you. The judges in making their dispositions cannot conscientiously send a man to the workhouse when he should be placed on probation. There is no alternative; they must place the man or child on probation instead of sending them to the institution. They have got to give you these probationers and you have to take them. The only solution of the difficulty is to get more appropriations for the work that you are doing and I think the state probation conference should consider a wider plan for securing larger appropriations for probation officers.

MR. WILLIAM E. WILEY, CHIEF PROBATION OFFICER, CITY COURT, BUFFALO: Since our last conference, I am glad to say that the Buffalo City Court has prevailed on the city legislators to more than double its force of probation officers. When I was

here last, there were five assistant probation officers and myself. We now have eight male probation officers, two female, a cashier and a stenographer, and myself. Of course, it took but a few weeks to show greater efficiency in the work.

I think that the home visit is one of the corner stones of probation work. My method now of supervising my home visits is this. Certain probation officers have investigations and their attendance in court is required; others are told they needn't come to court for a couple of days, but are to do nothing but look up different probationers through home visits, wherever they think it is necessary. My men spend evenings making home visits. Of course, the need of visiting depends entirely upon what the case calls for. Each of my probation officers is required to turn in a weekly list of delinquents and to state which needs personal attention. Then in some cases, when you have had a probationer on month after month, you come to know him pretty well and you learn that some cases do not require much attention. Then we devote our time to some other case which needs it more.

MR. PATRICK MALLON, PROBATION OFFICER, CHILDREN'S COURT, BROOKLYN: If we can only get the co-operation of their agencies, the home and the school and the church, then our work is easy. I haven't any faith at all in the number of visits that a probationer officer makes to the family. The fact that he has been there twice proves nothing, because it may be that the parents are all that possibly can be expected, and when the boy slips, and the lapse has been brought to their attention, they are as anxious as you are, and much more so, to correct it. On the other hand, that information can only be gotten by a visit to the home. A man can size up a place the very minute he goes in and looks around. I find it difficult to get ideas from mere reports. The eye takes in a thing better than the other senses.

Regarding this enormous number of children on probation. The children's court is crowded up with petty things that ought to be, it seems to me, turned away with a reprimand to the parents for a good spanking, or to the school teacher, and then the probation officer could have leisure to give to the cases needing attention.

The adult probation officer has to watch certain men, like thieves, who he is dead sure won't make good and the first thing he knows one of them is arrested again, and then there is a black mark against the probation officer and the judge will hold it up as a failure of the entire probation system and of carelessness on the part of the probation officer.

HON. JOHN B. STEVENS, COUNTY JUDGE. ROCHESTER: I believe that public attention is now being directed to the subject of the proper persons to be placed on probation. My attention was called recently to an editorial from a western paper to the effect that courts were loading up the probation system with people who should never be on probation, establishing probation as a sort of a substitute for punishment in cases where the individual before the court ought not to receive the benefits of probation. It had already been tried upon him perhaps again and again; the probation officer had no further influence upon him for the simple reason that the probationer knew that the judge was a little bit higher than the probation officer in authority and, consequently, as long as the judge was upon his seat there was no reason why he should obey the probation officer.

One of the principal things for the probation officers to do is to bring up the judges right. We have heard the expression used, "Train up a father in the way that he should go." There is the same kind of advice to be given to the probation officers to train up the judges in the way they should go. Some of you probation officers have had this experience. After you have served for many years long and faithfully, learning something about this matter of probation, then a new judge would be elected, a perfect amateur in this business, and by reason, perhaps, of lack of interest and inquiry into the methods of probation, very much of your experience is wasted. Your word doesn't go; he adopts his own methods and ideas and there has got to be in that community a certain measure of failure before the judge is instructed in the proper methods of probation.

We are operating under a special law in Monroe County. Under it we can do most anything that is for the welfare of the

child. That is the chief inquiry always, what is best for a particular child. We not only have jurisdiction of the child for the present, and not only jurisdiction of its person and of its immediate custody, but we have also jurisdiction of his property and appoint guardians for him and take care of the property in that way, as we have done in several instances, supervising the expenditure of the child's money for the child's benefit. But the important thing, the important feature, is that the court has a continuing jurisdiction. It is not merely for to-day or that we shoulder the child off into an institution and get rid of it there; our obligation does not stop, but it continues until that child is twenty-one years of age. That accomplishes this. If we should happen to make a mistake in the commitment of that child, we do not have to wait for the board of managers to expend a year of effort upon that child; we can commit it to another institution, or we have the power to take the child from any institution after we have once committed it there. We haven't exercised that power very much, never, I think, against the wishes of the institution to which the child was committed, for it would interrupt and interfere seriously with the discipline of any institution if a judge could commit a child and then a week or ten days later, under the importunities of the father or mother, let the child out again, but when we find that a child has been committed to one institution and it isn't a good fit we can change it, and in some instances that has been done to the benefit of all concerned.

THE RELATION OF PROBATION AND PAROLE

MR. CHARLES L. CHUTE, SECRETARY, STATE PROBATION COMMISSION: This section is devoted to the subject of the relation of probation and parole. We have never discussed parole at any of the annual conferences so far as I know. We have discussed probation and we have discussed parole in discussing probation, because they are very much the same kind of work. I think it is especially timely to take the subject up now inasmuch as parole work is being much talked of in the State. A new parole board is about to be appointed in New York City and a great extension of the system is to come in the near future. Also we find from the reports of probation officers to the State Probation Commission that every month there are more parole cases reported as being in charge of probation officers. It is a question of how much parole work probation officers ought to do. There is the question of how to combine the work and what we, as probation officers, should do to improve the parole work of the State. Our last reports showed there are 96 parole cases in the charge of probation officers in the State; that is, committed to the exclusive care of probation officers. The largest number is handled in Erie County; quite a number are handled by officers in New York City.

MR. FREDERICK C. HELBING, CHIEF PAROLE OFFICER, HOUSE OF REFUGE, RANDALL'S ISLAND, N. Y. C.: It is indeed gratifying to me to know that a section of this conference has been set aside for the discussion of the possible co-ordination of the work of the probation officer and parole officer. As far as I can see, there is little difference between the two. The probation officer, on the one hand, works with the offender before he goes into the institution and endeavors to keep him from going there, and on the other hand, the parole officer handles the offender when he leaves the institution and tries to help him walk the straight and narrow path. The work of the parole officer, in my opinion,

should commence as soon as the child is committed. As soon as a child is committed to an institution the constructive work to get the child ready for parole should commence.

For the last eighteen months report blanks have been sent out from the House of Refuge to the various probation officers, to the various judges, or whatever agency has handled the case, for information relating to that child or its family. The institution wants to know whatever the probation officer knows of the boy or his family. Why should the records which have taken months, perhaps a year to gather, be placed on file in the office of the probation officer and forgotten? Why cannot those records or a brief summary of them be transmitted to the institution which is to handle that child? The response to our efforts has been gratifying. These reports have helped us to know whether the child should stay in the institution a month, two months, a year or two years. The reports which we have received in many instances are just a summary of the case. I realize that probation officers are handicapped; that they cannot give their time to do clerical work, but a little information that we can receive goes a great way.

If my figures are correct, there are approximately 5,000 men, women and children on parole from the various State institutions under the supervision of twenty-four or twenty-five parole officers. The House of Refuge has 6; the State Industrial School at Rochester, 5; the various State prisons, 3; Bedford, 1; Hudson, 4. Is it fair to the paroled inmate of an institution to allow him to go out into the community without supervision? Is it fair to the community at large? I think the sooner we find out that parole supervision pays, something will be done.

MR. DON C. MANNING, PAROLE AGENT, STATE AGRICULTURAL AND INDUSTRIAL SCHOOL, INDUSTRY, N. Y.: Regarding the methods used by the parole officers at our institution, there are several points on which I would like to comment. First, the matter of investigations. It is absolutely necessary for the various institutions to have a positive knowledge of the conditions from which the child came to our institution before we can lay

out any systematic plan whereby we may bring about his reformation. We have three travelling officers who make a specialty of travelling continually. The State is divided into four districts and these men continually visit the boys on parole.

I lay particular stress on the personal visits, because from our experience, if the boy has a tendency to side-step a little and knows about the time our officer will visit him, he begins to straighten up. Then we receive reports. The parents are sent to the judge of the court with a form letter for his signature. They agree to properly care for the child. We do the same with the clergymen of the various creeds and in this way we place around the child moral and civil influences. When our officer visits the boy, the parents know it would be useless to lie about his condition, because the officer would immediately go to the judge, the clergyman and the probation officer; thus we get a very fair knowledge of how he has been behaving.

We have approximately 1400 boys under parole supervision and 800 boys at the institution; of the 2,200 children we have, with a rare exception here and there, no children of church-going people. This applies to all creeds. I mean by that, people who are actively identified with the activities of some particular church. Now, you can form any conclusion you wish regarding religion as a matter of reform.

I have always hoped that a hearty co-operation could be established between the probation officers and the parole officials, because in the absence of or during the time when our officers visit the boys in the local communities I believe it is a good thing for them to realize that there is someone in the locality who is actively interested in their welfare.

MR. WM. F. HODGE, COUNTY PROBATION OFFICER OF ONONDAGA COUNTY: The first sub-topic suggested is the "Need of Parole Work." A little review of what the State has done or what the State has provided for that sort of work ought to speak for itself. According to the last report of the Probation Commission there were something like 3,800 individuals placed on parole during the past year. Those cases were entrusted to the care of twenty-five parole officers, and average of 152 cases each.

As probation workers, we do not expect to have over 65 or 70 cases each, and yet these parole workers are crowded to the limit of 150 cases each. Not only that, but each institution carries on its work independently and its representatives are supposed to travel over the entire State. The Elmira Reformatory, I believe, has four paid parole officers; three are located in New York and one in Buffalo, and they look after something like 500 cases, an average of 125 cases each. The rest of the parole work of Elmira is scattered throughout the other counties of the State and amounts to about 500 cases, either entrusted to police officers, chiefs of police, voluntary workers, or others. The other institutions of the State have one parole officer each. I believe Randall's Island has six, and they take care of 400 cases. They had the lowest average of any institution, an average of about 60 cases for that particular year; but considering that each of their parole officers have cases carried over from other years, it brings their average up to 125 or more, I believe. Mr. Manning said that five men were looking after 1400 cases and that the State was divided into four districts, an average of nearly 300 to each man. I mention these figures to show the impossibility of any personal supervision whatever on the part of the parole officers.

The work of probation and parole is, of course, essentially similar and a large measure of its success naturally depends upon the personal supervision which the parole officer can give to these individuals. With such an overlapping system as is in vogue under the present parole system, with each parole officer extending his work over large sections of territory and with the large number of cases to look after, it is practically impossible for him to give any personal supervision whatever. The result is that his work is entrusted largely to volunteers, who, while well-meaning and conscientious, nevertheless, haven't the personal interest of the paid probation officer; the chiefs of police and peace officers are not temperamentally adapted to parole work. The nature of their work of running down criminals naturally predisposes them in the outset against anybody who has a criminal record and the helpful and hopeful condition of mind which the

probation officer must have in order to be successful in his work is in their cases largely supplanted by doubt and suspicion. You cannot expect the best results of parole under conditions of this sort. What the man needs is help and he wants it at once. He doesn't want to wait until a parole officer comes around to see him, perhaps many months after coming out of the institution. He wants help right away. Naturally he is weakened; naturally the finer edge of his manhood has been turned a little bit; he is going home to his parents and friends and, naturally, he is ashamed and humiliated on account of the condition which has brought him into prison, and with these things hanging about him like a wet blanket, as he comes forth to make a new start, it isn't surprising that he should become discouraged and fall back, and there is nothing that can be of more help and encouragement to him than to meet someone like the probation officer or some friend who is ready to give him a cordial greeting or friendly handshake or assist him in obtaining a job, as I did for a fellow last week who was paroled from Auburn Prison. All those things necessarily encourage him and help him to get his new start in life.

Successful parole work like successful probation work must be founded on two essential principles. First, there must be watchfulness; i. e., the parole system must extend the correct supervision. Second, it must be a helpful supervision, a supervision which has in it the element of help, and that, I believe, is lacking in our present parole system because with the number of cases which each officer has to look after, it is practically impossible for them to afford to the individuals entrusted to their care any element of personal help whatsoever.

There were committed last year to Auburn from Onondaga County 30 cases, and out of that number there were 13 cases of boys who had been to Elmira. Out of 37 cases which had been sent to Elmira, there were 14 cases of boys who had been in the Rochester Industrial School. Practically 40 per cent. of the commitments in the county court were cases that had previous records in one or the other institutions. I believe the Prison Commission two or three years ago conducted an investigation in the State as to what had become of the 500 boys who in 1904 were discharged

from the Rochester Industrial School. The result showed that in 1911 about 45 per cent. of those boys had found their way back to jail. There was something like 15 per cent. unaccounted for, presumably many of whom were in jail. I have no reason to believe that these figures are different now from what they were then. The results of our probation system show that there is only about 15 or 20 per cent. failures, and I do not see any reason why with the proper supervision of parole work this percentage of 40 per cent. of failures should not be materially reduced. With the probation system, extending as it does, all over the State, and with each probation officer working in small communities or units of territory with practically no overlapping, they naturally become the ones to look to; it fits in easily with the work of parole, because there is no traveling over large territories, and no overlapping. Not only that, but the probation officer himself in most cases has some sort of previous acquaintance with most of the fellows put on parole. Almost every probation officer investigates the cases before commitments are made and reports his findings to the judge. After an individual has served his term in prison and is about to be returned, he naturally comes back to the county from which he was committed, and the previous acquaintance which the probation officer has had with his case naturally enables him to give that fellow some immediate help as soon as he comes out. Possibly the fellow is one who had previously been on probation, had failed for some reason or other and had been committed to the institution. The acquaintance which the probation officer had with him before he went to the institution peculiarly fits him to take up the work of overseeing him again and of seeing that he gets a new start in life.

I am glad to know that the work is starting and that the disposition of the institutions is to employ the probation worker as a parole worker. There are objections to the correlation of the two systems. I appreciate that to some extent, but they do not seem to me to be real genuine objections. The thing that is essentially in its favor is that it affords the opportunity of bringing immediate help to the man as soon as he comes out on parole in a way that cannot help being of benefit to him.

DR. ALGERNON CRAPSEY, PAROLE AGENT, STATE AGRICULTURAL AND INDUSTRIAL SCHOOL: Listening to the previous speaker I felt it rather a duty to bring out some facts. I entirely disagree with him as to the advisability of a parole officer interfering unnecessarily and frequently in the life of the paroled subject. My belief is that he should interfere as little as possible. When we send the boys out we want them to enter immediately into the ordinary, average life of the community. We don't want them to be institutional subjects any longer; we want them to become boys. We put them back in the world and we want them to make their own way. I have under my care 370 boys. I know their condition and I know the conditions of their home. Eighty per cent. of those boys are average boys and they don't need any more interference than my boy does. I run around once in a while to find out how they are getting along, but even that is a thing which should be done cautiously, because every time a parole officer or probation officer makes a visit it suggests "badness." I have worked on both sides of the subject. I have been pastor of a church for many years, with a large congregation under my care. There when I visited my visit suggested that the boy was a good boy. Now my visit suggests that he is a bad boy, and when he sees me coming he flinches. The parole officer should go as little as possible and he should not attempt to regulate the life of the boy. The boy has to do that himself. He must find his own job; I do not find the job for him. Therefore, I should differ entirely with my friend. I could take care of 300 boys without any trouble. I visit them too much, if anything. I go to their homes too frequently. They begin to say, "There he comes again," and there is no reason for it.

I recently made a report of the boys under my care and as far as my knowledge went, over 80 per cent. were classified as good. I classified them as "excellent," "good," "fair," and "bad." The "excellent" were those who were above the average boys of their class. The "good" were the average boys of the class. The "fair" were a little below the average, and the "bad" were those who had drifted back again into the care of the court. These boys are boys and nothing else under the sun; they do exactly what all boys do, but unfortunately they are picked out from the great

mass of boys and subjected to penal care; therefore, instead of urging that we should have more parole officers, I should say we should have less and we should not attempt to become the director of the boy. He has got to do that himself and when the time comes and our direction is needed then we are called upon, but in the ordinary cases there is no necessity for it whatever. It is a mistake to suppose we ought to have such supervision over the boy as would bring him under our tutelage all the while. Let him alone, and that will be my advice to the judges as far as possible. I am of the opinion that it is a mistake on the part of the law to commit these boys to the care of any institution until they are twenty-one years of age. Here is a boy seven years old sent up and he is under surveillance until twenty-one. My experience is that they resent it very justly, and they ask me, "When am I going to get out?" You have to keep that boy until he is out of your care, and these boys are committed until they are twenty-one, and I say let them go with as little supervision as you possibly can give them and let them commit a half dozen faults before you see fit to interfere. The parole officers have power to exercise very much discretion. We can arrest the boy on parole and take him back if we decide he ought to go and our sole effort is to keep him out; we will do everything to keep him out of the institution. I am called on as parole officers are, to take these boys back but in the course of the year, I took back only ten out of my three hundred. Now that is not so great a number, and nothing lies like figures, so when we are told 40 per cent. of our defendants are in a certain batch of men sent to prison we must remember that 20 per cent. of those boys failed. It isn't 40 per cent. of our boys that fail, for they don't. Being average boys, they get along as other boys do. We don't expect them to be saints — we are none of us saints — but we do expect them to be the average boy of his class.

MR. MALLON: I think it is absolutely necessary when a boy is placed on parole that the parole officer or probation officer, whoever is acting, should ascertain immediately if the boy is getting the proper start; if he has secured work and started normally, then of course he can be left alone to himself. It is not necessary to follow him up every day if he has the proper start. We have

boys paroled from our private institutions such as the New York Catholic Protectory which takes the same class of boys as the House of Refuge, and they do supervise the boys when discharged, but I have often found fault for not getting after the boys soon enough to ascertain whether he goes to school or not when discharged. The question is, does he do that, and I think the institution ought to have the opportunity to ascertain if the promises which were conditions of discharge are being kept, then when the boy is started regularly and his parents or guardians are normal people we let him alone, but there ought to be enough supervision to make certain that the boy did begin regular normal life. This business of following up boys and men is all wrong, but I think the institution owes it to itself and society to see that the promises made are fulfilled in the beginning, and of course we must assume that if the boy is well disposed the parents will do their part.

THE CHAIRMAN: I, for one, certainly disagree with Mr. Crapsey. I don't see how any man can supervise 400 boys and know what they are doing. I speak from an experience of seventeen years in institutional work, and I believe I know the boy not only inside the institution but outside; I want to know what the boy is doing while on parole. I will admit our institution does not and cannot supervise the boy as he should be supervised, and I am willing to go on record that no man, whether it be in the rural districts or in the city, can properly supervise and do constructive work with 400 boys.

SECRETARY CHUTE: Some of the points which have been raised can be bought together somewhat. Now, I think that the statement of Dr. Crapsey that the visits of the probation officer or parole officer — and I think their work is practically identical — are looked upon as an interference in the boy's life is wholly wrong. That strikes at the root of our probation work. The visits of a good probation officer or parole officer to the families of boys or men on probation do not interfere with his life if carried out in the proper way, and they are not so considered. I know from experience and investigation in the State that probationers welcome the visitation of good probation officers. The same thing

would apply to parole officers if they made visits. They are helpful to the probationers and are not necessarily suggestive of evil to either the persons on probation or parole or to their friends, relatives or families.

Probation and parole come very closely together, as many boys and men are first probationers and then are placed on parole and then probationers again sometime. I was reading the other day that in one of our smaller cities the judges had instituted the plan of taking men convicted of public intoxication and who are victims of the disease of intoxication, and instead of putting them on probation they send them to the county jail for a few days to sober up and get the alcohol out of their system; then they put them on probation. Of course, that is parole after having served time in jail, but they need the same care as they would if they had not spent a short period in jail.

We hardly need to discuss the fact that persons on parole need supervision and need just as much supervision as probationers. We all believe we cannot give our probationers enough supervision and certainly the persons on parole are not given enough supervision with only twenty-five parole officers in the State and these covering overlapping territories. I believe that the solution has been suggested for sometime in this State. When it was first suggested that probation officers should handle parole cases in their districts, there was a good deal of opposition. I think that opposition has been dying away. I find that probation officers not only are handling parole cases, but would be glad to handle more if they had time; the argument that probation officers haven't time in our cities to handle parole cases is no argument against their doing so. There should be more probation officers so they could handle cases in their localities. In urging that solution we might overlook the importance of the institutions keeping in touch with their cases. They should keep in touch with them, but I think they could do it through the local probation officers, and I believe it is going to work out in that way as it has in some other states. In Vermont probation and parole are correlated and the same officers handle parole and probation cases throughout the State. I believe that is the only practical solution and it is going to come. I don't think there should be any general differences of opinion among

the officers, probation or parole, here present, on the proposition that probationers and paroled persons need practically the same supervision and care and all the help we can give them.

MRS. MAX THALHEIMER, CHIEF PROBATION OFFICER, SYRACUSE: I was very much impressed this morning to hear from almost all the speakers about the overcrowding of the probation system. It reminded me of the street car that always seems to have room for one more. I have at present a number of persons on parole and I find they are very much easier to handle than those on probation, they have had the restraint of prison or institutional life; they seem to have learned the method of following their officer. There should be co-operation between the probation and parole officers. It is our duty to do whatever we can to help those who come to us in one way or the other.

MR. MOUNTENEY: It seems to me it would be impossible to have supervision over such a large number as Dr. Crapsey has under him, and for one, had such a large number been given me I would be hard pressed to find a way to do that work satisfactorily. I received two cases from Great Meadow Prison. They were paroled first to the Captain of Police and he turned them over to me, telling them that they must seek out the county probation officer. Be it said to the honor of those men, they sought me out. I went into Valhalla and found them in an Austrian saloon and went without a probation officer's badge or any authority to be there at all. I am getting no little pleasure in my dealing with those two men. They learned something in prison as Mrs. Thalheimer has suggested; they learned that certain men had certain authority, and they come to me as cheerfully, more cheerfully perhaps, than anyone else comes to me and they answer questions cheerfully; I believe they feel I am their friend as much as any person. I think we can do a certain amount of parole work and I am figuring on the day when we shall have an adequate force of women and men officers in Westchester County and when one officer can be delegated to take charge of the parole cases.

MR. EVERSON: This idea of merging probation and parole came up in New York City recently. The idea of merging probation and parole is a very good one. At the present time, however, it seems to me as if it was rather inopportune. Both probation officers and parole officers have more cases than they can attend to. The authorities who appropriate the money for those two kinds of work think: "Well, now we can merge these two things; put them together and it won't cost any more than it will to run the probation system." That is the practical way in which the financial authorities look at it. It would not only have precluded the establishment of the proper probation and parole system, but would have ruined our present probation system. So in considering this question, let us be practical and be sure that we have these systems on a proper footing or be sure we have a plan of merging which will not injure either of the two systems.

I would like to speak on the possibility of having the records of the probation officer forwarded to the institution in case probationers be committed to institutions. I would suggest that each institution furnish to each court from which they receive children, a supply of blanks with proper spaces for all the information wanted about the child when the child enters the institution.

MR. MANNING: Relative to the placing of children on parole under probation officers. When we abandoned the idea of four walls — please do not misunderstand me; four walls are necessary for a certain type of delinquents and I approve of a certain class of boys being confined in a walled institution — but the plan and intention of our institution in abandoning four walls was that these children were the result of circumstances; that they had never lived as normal boys live, and that the State of New York was to provide a normal home for them with the view that if they lived under normal conditions they would be normal boys. The biggest percentage of our boys are the result of misdirected energies. We have two types, the wornout American family, physically and mentally degenerated, and another type which are, to use a term quoted in Dr. Crapsey's report to me, "progressive criminals" — boys who are absolutely normal in every respect, mentally and physically,

but have lived in the wrong environment. We bring them into our institution and classify them. We place homeless boys with homeless boys, and we operate thirty-one small institutions from a central plant with the home life developed to its highest point. It is not an uncommon thing for the boys to cry when leaving the school.

An assertion is made by many authorities that the boy has lacked kindness; he hasn't had the proper treatment at home. The boy has lacked discipline; he has lacked justice. He has been allowed to drift into his home at two or three o'clock in the morning and if the father came in and felt like knocking the boy around the room he did so; the boy has been killed by the lack of justice, not the lack of kindness; he has been killed with kindness misdirected; he has been allowed to do exactly as he pleased; there is no discipline as fine as discipline in a well regulated home.

We send out these blanks immediately after application has been made for the release of the boy:

"Will you kindly take this blank to the Judge of the Court, and ask him to sign it and return it to me at once?"

"Dear Sir: This is to certify that the home of..... is a proper place to which son may be returned. The parents or guardians have agreed to see that this boy has proper employment or that he attends school, if he is of school age. They have also agreed before me to properly clothe and care for him. It is understood by the parents that failure on their part, or on the part of the boy, to live up to the above mentioned conditions, will be sufficient reason for the boy to be taken from their custody and placed elsewhere or returned to the school." Signed by the Judge of the Court.

Then there is the letter signed by the Pastor of the Church, as follows:

"Dear Sir: This is to certify that the home of..... is a proper place to which son may be returned. The parents or guardians have agreed to send this boy regularly to Mass and to the Sacraments, and if he has not attained the proper school grading in accordance with the Educational Law, the parents have agreed to send him to school regularly."

Now, the process is this: Mrs. Smith receives these letters. Johnnie is about to be paroled and she sees Father or Doctor as the case may be and says, "I must get a letter from you to get my boy home." "What kind of a letter is it? Well, I cannot conscientiously sign that; I don't know you; do you go to my church; are you active in the affairs of my community?" "No, but I must have my boy." The clergyman then lays down the rules which govern. "I am going to sign this because I do not wish to stand in the way of the boy, but if you don't send him to me regularly, I will notify the institution," and she goes to the judge who says: "My dear Madam, I cannot give you this letter because I had to send your boy away for just one reason and that was because you could not take care of him." "Well, now judge, doctor so and so has given me a letter." "Well, come in tomorrow and I will see about it." Now, then we do not want to do anything in the way of standing in the way of this boy. We get this information first hand from the clergyman, and the Judge, but the idea is to force the people to go to the court. The boy goes home. Following that we send out the home investigation blank and our officer goes there to find out whether the home is proper or not. Following this, comes the statement or system of quarterly reports which are sent to the home and the supervision by the officers then begins; we keep record of this and verify it by documentary evidence. We have in the district which I personally supervise something like 138 boys and I have seen all of those boys within the last six or eight weeks; 81 per cent. are doing well.

HON. HOMER FOLKS, PRESIDENT OF THE STATE PROBATION COMMISSION: I will only take a second now and I should like to keep to the subject of the morning — Probation and Parole Work and Its Supervision. A suggestion was made a year or two ago by the State Prison Commission that the work of visiting those on parole should be under some central State board of inquiry such as that to which the probation officers are subjected. That suggestion was made by them because of this fact: the person released on probation is released conditionally, of course, and it is important for the State as a whole to know whether those conditions are

observed or not. The release on parole is exactly the same; it is a conditional release on good behavior; the element of the home conditions enters also. Now, it is equally important for the State to know whether the machinery for enforcing that conditional release exists or not. As a matter of fact, there are very wide variations. Each of the various institutions, has its own plan of dealing with its parole work; it is in full administrative control of that system. Each State prison has its parole agents and is in full administrative control of that parole work. Now, it is generally understood to be the fact that so far as the prisons are concerned the parole officers are so few in relation to the numbers who are released on condition of good behavior that it is a physical impossibility for them to have any kind of information whatever as to how those men are doing, except by the written reports which they receive from the men themselves or from others who have become interested in them. It requires no genius for a probation officer to know that that plan is bound to work badly and under those circumstances a conditional release is not a conditional release, but in most cases, unless a man acts badly enough to be rearrested and brought into court, he goes on his own way regardless of the fact that he is conditionally released on good behavior. As between the different institutions there are different grades of efficiency and the number of people available for the work differs also. There is no standardizing of reports; there is no standardizing of information as to how many people are on parole. It is around 5,000, but nobody knows exactly. In other words, there is none of that effort to arrive at a reasonable degree of uniformity such as exists in probation work, and I believe that to be a very vital necessity; I think some of the opposition that existed to that move was due to a failure on the part of the Elmira authorities to understand the difference between administrative control of parole which is vested in the various institutions and an inspectorial recommendation which was proposed by the bill.

Now, take the institution which was just under consideration. I am disposed and constrained to believe that the amount of work put upon its parole officers scattered over all parts of the State

is such that it is not possible for them to maintain that high degree of supervision which they would wish to have.

A while ago we made a survey of sickness in Dutchess County and in that survey we made a house to house canvass of four towns; visited every house. Of course, we found a great deal of feeble-mindedness, and things like that; some extremely degenerate families in which there were the most brutal combinations of evils of all kinds of which I have ever known. In one of those families there was a boy on parole from the State Industrial School. He had been committed to the State Industrial School because of the bad conditions in the home and for bad behavior. At the end of a certain length of time he was released and returned to this very same place — a nest of feeble-mindedness, degeneracy and evil of every description — and his parents knew just enough to send a report saying he was doing well. If anything could be more sure to insure his return to evil ways, it was his being returned to this home. The institution cannot be at fault because it hasn't the staff to go out and personally see those places before allowing the child to return and nothing in this world will take the place of first hand, direct knowledge gained from personal observation. In the future in dealing with those released under this personal oversight — both those who have not been placed in institutions and those who have been — it seems to me inevitable that we must devise a more efficient machinery for being sure through local direct personal observation what the conditions actually are and we must depend less and less on written reports and on correspondence.

MR. JOSEPH J. KINGSBURY, CHIEF PROBATION OFFICER, BUFFALO CHILDREN'S COURT: I would like to ask Mr. Manning whether or not his institution adheres strictly to the reports received from the judges of the various cities from which boys are committed and if they are ever returned home before such report is received at Industry?

MR. MANNING: I wish to answer Mr. Kingsbury's question by stating that there are exceptions to all rules and I will have to state the individual case where the boy is returned

to his home in the face of the recommendation of the court, the clergy and of the parole officer in the district. I have in mind the case of a lad who went into the City of Buffalo, a boy who was tubercular to begin with and not a fit subject to be placed in a family because he might transmit the disease to others. This we knew, and that is something the Judge of the Court and the parole officer could have no possible knowledge of. Therefore, in the face of his recommendation the boy was sent home. The family were continually writing to the institution for the boy to come home; he had a strong love for his home and politely told me when I came in that if I placed him in the country he would run away and would rather stay in the institution. The authorities in the institution feel it is better to safeguard these children with such means as we have at our disposal than to send them to a home knowing they will immediately leave at the first indication of trouble, and will return to the city with a knowledge that they have violated their parole.

There is one point regarding the mentally defective child referred to. Our institution is not prepared to take care of mentally defective children and we have no means there. They are a subject of ridicule for the other boys so we send them back to the counties from which they came and if the county authorities will not accept them we send them back home.

THIRD SESSION

Monday Noon, November 15, 1915

ADDRESSES AT THE LUNCHEON

HON. ALPHONSO T. CLEARWATER, MEMBER OF THE STATE PROBATION COMMISSION: I was rather taken aback when I arrived in the hotel to hear announced in stentorian terms that the *prohibition* luncheon was now ready. That designation might well apply to our luncheon for it cannot be said to be alcoholic.

It so happened I was Chairman of the Committee of the Constitutional Convention upon Penal Institutions, Reformatories, and the Prevention and Punishment of Crime, a member of the Judiciary Committee, and the vice-chairman of the Committee on Education; and thus it was that all of the matters which were discussed before the Committees of that Convention having to deal with the punishment of offenders and the different ways of dealing with them with the purpose of reforming them or of ameliorating their condition, came before me. We had all the uplifters and I might add all the down-pushers who interest themselves in that question. Everyone who had a plan for the reformation of criminals came. Everybody opposed to any such plan came, and thus it was, that often I had to walk downstairs at one o'clock in the morning, the only occupant of the Capitol except the night watchman remaining to gather up after our sessions the material which was showered upon us. We had before us this question of the constitution of courts for juvenile delinquents and courts of domestic relations, and we incorporated in the Judiciary Article an amendment to provide for them. While our Constitution was buried under a monumental vote, a majority so large as to amount to jocose proportions, yet it is evident from letters I have received from different parts of the State, from people who voted against the Constitution, that there is a regret that the provision relating to the Constitution of domestic relations courts and courts for the dealing with juvenile delinquents failed of adoption. I

was impressed, notwithstanding the disputes which arose between the members of the Prison Commission and the wardens of some of the State prisons about management, that they seemed to be in accord with the views of this Commission in the establishment of domestic relations courts and courts for the trial of juvenile delinquents, and sooner or later, probably sooner than later, the Legislature will submit to the people and the people will adopt an amendment to the Constitution which will create those courts in substantially the form recommended by the Committees of the Convention and by the Convention itself.

The most revolutionary feature of that recommendation and the one we found it most difficult to adopt was the provision conferring equity powers upon courts of domestic relations. To those of you who are not familiar with this term, "the conferring of equity power," is a mere use of words without conveying any idea of what is involved; but it briefly is this. While we have abolished the distinction between law and equity in our judicial proceedings, yet by the daily practice of the courts, we maintain that distinction. It arose out of the practice which originated in the reign of Edward the Confessor of England in the creation of a Department in the Court of Chancery of England by which under an act of Parliament which has been in force so long that it is common law today, the Court of Chancery was made the guardian, the protector, and the custodian, not only of the person, but of the estate of all persons under twenty-one years of age. Also, it was made the custodian of married women who had contingent or vested interests in real property. That practice descended to us upon the adoption of our Constitution at my own home in Kingston in 1777, our first and best Constitution, and it has remained part of the organic law to this time. So jealous are the courts of this State, its Legislature and the makers of its Constitutions that they never have conferred that equity power upon any court except the Supreme Court. They have refused to confer it upon the county courts and inferior courts and therefore the effort of the Probation Commission to authorize by Constitutional provision the creation of domestic relations courts out of existing courts or of new courts for this purpose. Judge Beall can

explain to you how it acts in his own city. He created for himself most humanely a domestic relations court. While it is a decided innovation, it works well under his management, so markedly that in our discussions in the Convention we discussed the success of this method which he adopted. There are many instances in which a man will earn money which may not be paid to him immediately and when it is paid to him he will squander it upon others than the members of his family whom he is bound to provide for, and there has been no legal way of reaching that money and devoting it to the care and maintenance of his wife and children, except through the Supreme Court, a very expensive proceeding.

The object of this Constitutional provision was to confer adequate power upon courts of domestic relations and to give to these courts by order of injunction, power to impound not only a man's wages, but to impound his vested and contingent interest in any property, because there are many who have property in the hands of others who live riotously and whose wives and children suffer. The contention was for a provision which would enable these domestic relations courts to deal with this state of affairs and put the fund in the hands of an officer of the court to disperse as the court might see fit. There was a long struggle before the Committee on Prisons as to its advisability. Lawyers are a conservative body; I would not say they are reactionary, but they do not progress with speed and the majority of the members were lawyers and doubted the wisdom of conferring this great power upon courts of inferior jurisdiction, but after a long discussion and much argument they decided to do it. Then came the struggle with the Committee on Legislative and Other State Officers. They asked that that question be referred to them. Some members of that Committee thought they saw in that amendment some hazard to the commonwealth. Then was the struggle before the Judiciary Committee where we had Mr. Folks, Judge Mack and Mr. Wade, members of the Commission, and before my own Committee came the District Attorney of New York to advocate this amendment very strongly; also Mr. Rosslyn and Clerk Riley. Notwithstanding implacable animosity over other matters this seemed to be the only matter upon which these illustrious combatants were willing to

agree, and did agree, a wise thing to do. Alas! it was buried under this monumental majority of 500,000. However, as Senator Root said in a letter which I received from him on Saturday, it is only a question of time when the wisdom of what we did will be apparent to the people of the State and they will adopt it by separate Constitutional provision.

While it is a matter of regret that I have not been able to give to the details of the work of this Commission as much time as I would like, during my twenty-seven years' official connection with the administration of justice, as District Attorney, County Judge, Judge of the Supreme Court and member of the Probation Commission, I have had impressed upon my mind the wisdom of probation work. I received a letter yesterday of which briefly I am going to speak.

When I was District Attorney of Ulster County in 1878, it was a turbulent county, one of the most turbulent in the State; it was a time when the Delaware and Hudson Canal had immediate connection with the coal mines of Pennsylvania by canal terminating at Kingston. So turbulent was it that one hamlet containing only forty-five families returned a majority of 698 votes for the party which then controlled the county and thirteen men out of those forty-five families went to prison for violation of the Election Law. There was a large amount of property stolen and the theft seemed to have been well planned and executed. I was my own chief of police, I had no telephones, no automobiles, nothing that the District Attorney has today. I came to the conclusion that three men, two of them descendants of the famous Jukes family, and a younger man whose father was one of the noted horsemen of Ulster and Orange Counties, in fact of the State, and whose mother was a most beautiful young woman not married to his father, had been engaged in the burglary. I had these three men arrested and put into the county jail. I became convinced that the younger man was the victim of the two older men. I tried the two older men and sent them to State Prison and went to the presiding judge and said, "I want to give the younger man an opportunity to reform." He looked like a Greek God; he was twenty-one; handsome; blond curly hair; frank, open face but he was

drifting to the bad. "Well," the judge said, "You can do as you like about this; I will leave it all to you," and so I had an interview with this man and told him I was going to let him go upon the condition that I would keep the indictment over him. I wanted him to go to the West and told him I would give him a letter to a friend of mine who lived in the State of Ohio. He said he would be glad to go and if I would give him that opportunity, he would not do anything bad. I fitted him out; sent him to my friend, to whom I gave an account of his history and parentage, and he gave him a position in his hardware establishment. Now, I shall not spend the time to give a detailed account of that man's life. He changed his name; he has been the Mayor of his city; he is the successor of my friend in the wholesale hardware business; he is a man worth a million dollars; he has five children and eleven grandchildren; he writes me twice a year and I received one of his letters yesterday. That was probation, although the system of probation was not then thought of in this State. People who committed crimes were sent to State prison and rarely got out. There he is today a leading and respected citizen, prominent member of the Baptist church; has been the superintendent of its Sunday School, an excellent man in every way. So far as I know, I am the only person who knows his entire history.

That is what can be done by the work in which you all are engaged and I dare say every one of you who has been engaged in this work for any length of time can recall instances as striking at this one. I am sorry to leave you, but an imperative engagement takes me away. It is a great pleasure to meet you. I fear when I was on the Bench I was rather an austere Judge, but I am happy to say as I grow older I trust I grow more mellow, as we all should, but in all the work in which I have been engaged there is none that appeals to me more strongly, none to which my heart goes out more than it does to the work in which we are all partners — this great work of probation.

HON. JOSEPH H. BEALL, CITY JUDGE, YONKERS: The work in which the criminal courts and in which you as a part of those courts are engaged, is perhaps as important as any work that is being done in the world. A few years ago a writer

in the law magazine, "Bench and Bar," said that in his opinion the inferior criminal courts had a more powerful and far-reaching influence upon the manners, the morals and habits of the people, than the Supreme Court and the Grand Jury and the District Attorney's office combined, and I believe that to be true, because the latter deal, unless in exceptional instances, with the habitual criminal; whereas in the minor criminal courts we catch crime at the fountain head and stifle it. I take it that the success of any administration of criminal justice is to be measured not by whether your jails are full, but by whether they are empty, and that the highest and most important function of human justice is not so much to punish crime as to prevent it.

We have made vast progress in the last century in many lines. I do not speak now of those material things, of that genius of invention which is harnessing the power of the world and revolutionizing all industry; I mean in the application of humane principles to the administration of criminal law and to the various phases of penology, including the administration of prisons. Of course, there is nothing new under the sun, in a sense. There are many defects in our criminal laws, and the Romans had better laws in some respects than we have concerning crime, but we have a humanitarianism which attempts to uplift instead of crushing the man, which regards in the first instance a man's relation to society, which concerns itself with him not as a malefactor alone, but as one of the units of society, as one of the assets of the State, to be encouraged and to be built up and to be helped. I say that I know of no development of this age that is more important than that. Your factories, your mills, your material prosperity, shrink into insignificance compared with the work that constructs that citizenship which stands as the keystone of the State.

In connection with this reform there is scarcely any branch of work more important than probation. I do not want to magnify it; I do not want to be regarded as a faddist; I know its faults and deficiencies; I know that nothing but the grace of God can change a bad man or a boy into a good one, but I do know that this probation system opens up a channel through which the courts can keep men and boys and women in their homes instead of sending them to institutions. I know it, because, as your President,

my fellow townsman, who has done such splendid work for this system, said, I was fortunately one of the pioneers in the East under his assistance, in the development of this system and have worked it out in the court in our big city and have built up a system, the results of which are such that I may say to you, if I may speak in a personal way, that when I lay in a hospital last winter, and the doctors told me I was dying, I was consoled with this thought, that whatever I had done to offend my God, or my fellow-men, I had partly atoned for in the creation of the probation system in the city of Yonkers.

We are met there by very difficult and unusual problems. It is a city of nearly 100,000 people, adjacent on the one hand to the city of New York, with 5,000,000 population, on the other to the city of Mount Vernon with about 40,000 people. There are four railroads running through our boundaries, and 19 railroad stations, with the greatest carpet works in the world, the largest soft hat factories in the world, great sugar refineries offering employment to the unskilled. We have there Italians and Poles from the great de-nationalized Polish Empire; Assyrians and Hungarians, Slavs and Finlanders, all the odds and ends of the earth, earning very little money, pitiful beyond belief. Inasmuch as families of six or seven are being provided for on that many dollars a week, it gives rise to tremendous problems, especially on the boy's side of it with reference to probation.

Curiously enough the number of juvenile delinquents has never increased; in other words, with a 40 per cent. increase in the population of our city, the number of boys hasn't increased any in over ten years. It is one of those things I have never been able to figure out. We have had, I should say, 6,000 boys brought into the children's court and probably in the neighborhood of a thousand girls, and most of those cases have been successful. The boy that comes back to us the second and third and fourth time is the boy that has been in the institution. Of course, you have got to allow for this, that if the boy hadn't been fundamentally bad, I never would have put him in the institution in the first place, but the fact is, the recurrent cases are not the probation cases; they have been sent to institutions and somehow or other they

keep coming to me and I have to send them to the jails or penitentiaries.

I want to say to you probation has been a tremendous success. Let me illustrate. Two boys of about fifteen years of age made up their minds to elope with a girl. Of course, fortunately, in most juvenile crimes we do not have to look for the woman at the bottom of it, but in this case there was a woman at the bottom of it. They concluded to elope. One of these boys was an apprentice in a drug store and the druggist carried considerable money in his cash drawer. So it was arranged that this boy who brought his meals to the druggist should administer to him chloral and rob the cash drawer, and then the two boys and girl were going to leave, and they did. The boy gave the man chloral and got \$300 and they were apprehended by our police at the New York State line, and brought back. Now, there wasn't a thing on earth against either of those boys outside of that charge. There is the judge's problem; what am I to do. You know from your experience that the boy who gets into trouble is the man that is going to get somewhere else if he grows up to be a man. You know that the boy who never got into any mischief and never into trouble is never going to get into anything. It is the strong, resourceful, the fearless, and courageous boy that gets into mischief. He is the one who breaks the windows; he is the chap who climbs into the orchard and takes the fruit, and the one who sometimes steals other things. I had these boys and I took a chance. I put them on probation; let them out, and the town stood aghast. But the boys made good and grew up. One is working for a great railroad and the other is foreman in a prominent factory and they are as good as anybody so far as I know, and they were just on the border line where if we hadn't had this probation rope to throw out and haul them in, we would have had to commit them to an institution.

Years ago I learned of the collection of money in domestic relations cases. I want to emphasize it to you, that that kind of money has bigger purchasing power than any other money I know of. It goes further; it is the most needed money; it is generally where a man has abandoned his family and there are a lot of chil-

dren and the woman is going to make the money spread over a big space. So I got my Board of Estimate to let me appoint a domestic relations probation officer to care for these domestic relations cases and the result has been that today in Yonkers we are collecting over the counter of our court and paying out in the neighborhood of \$10,000 every year of that kind of money. It is an especially fine thing for this reason, that the non-support laws of the State of New York, just like the old age support laws, are a failure. It is no remedy to lock a man up in jail. If they would take him and put him to work, and make him produce something and turn the wages over to the woman, we would have some solution; but next to that is this unconstitutional domestic relations court of mine which works pretty well. The men come every Saturday night and Sunday and put up the \$2, \$3 or \$5 until that amounts to \$10,000 a year.

Let me repeat what I said at the beginning, that this probation work is more important, more farreaching in your own community for the future of the State, in connection with the administration of justice, than any other power or influence operating in our Commonwealth today.

DR. C. EDWARD JONES, SUPERINTENDENT OF SCHOOLS, ALBANY: I have been listening to find out where we stand, as school men, in connection with this great and interesting work which you men and women are doing throughout the State. I do not believe it is possible for me to do my work or for you to do your work unless we understand what each other is trying to do. The thought that came to me most emphatically and has come out of this meeting today is the thought that is underlying all education, whether it is along academic lines or lines in which you are concerned, it is that we have gotten away beyond treating children as masses. There is no longer the idea that here is a school, but today, here are so many souls, each one different from the other. It is no longer the case of whether the punishment shall fit a specific offense, but how does that child fit to his environment; what can we do to bring about a more perfect harmony that his life may

be the better and stronger for it. I hear you say, the environment and it comes back to my own work as I realize how much environment counts in the work we do, and I mean every one of us, for I find that your work and my own is not so far different. We are all working for the same purpose. Where you find the home of poverty, you find the home of the delinquent and you are going to treat that case differently than if it comes from the better home.

We are confronted by the problem of feeble-mindedness as you are. We have all sorts of "Jukes" right here and by different names. One mother of these came to my office the other day bringing along with her a six year old, and a happy smile on her face. Why it would take all the knowledge of the Constitutional Convention and domestic relations court to untangle the matrimonial relations connected with that particular family. One of the members of that family was in Dannemora; another is in Industry and the third one we sent to the truant school and she came bringing the other and said, "Mr. Jones; I think there is something the matter with Johnnie; I wish you would see what you can do for him." Of course, there is something the matter with Johnnie, there is something the matter with Johnnie's father and mother. I find that you too are interested in that problem. I hear some people say, "If you can solve the home relations and conditions, you can solve these problems." True you can, but you have got to get hold of the future and not of the past. You cannot expect to do so much for this particular child and woman; when you find the conditions there that you find, you know it is the home of the future you must get hold of, and I find that is one of the keynotes of this meeting today. It is building up homes for the future; you cannot spend too much time on what is already wasted and destroyed. Do what you can, but realize there are limitations.

Another thought that has come out of this work, is in regard to the physical condition. Is the child beer fed and coffee fed at home? Take our children who have had nothing but coffee and bread, or bread and beer, do you expect them to be able to maintain the same moral strength as the child that is well fed? We don't. You know something of those conditions; those things temper the severity with which you are to judge of these cases.

Then, here is the question brought up by our Health Director. It is the mentality of the child. A boy came into my office, six feet two inches high, sixteen years old, and said, "Dr. Jones, I want a job." "What can you do?" "I don't know." "James, can you tell me what street you live on?" "No, sir, but I want a job." "Can you read that sign?" "No, sir, but I want a job." That boy had been in school eight years and yet the eight years in school had done practically nothing for him, not because the school was bad, but because that boy stopped growing mentally when five years of age, and the boy had gone on to be six feet two inches with a weight of nearly 200 pounds and a mind of five years of age. Such a boy goes out; we cannot keep him after sixteen; he becomes a social problem, perhaps a problem for the probation officers; he gets into trouble; he commits an offense, possibly murder. Is he criminal? To what extent is that kind of a person to be held responsible? Here is the great work, as it seems to me, that lies before you men and women to try and determine and help fix the status of responsibility for all those boys and girls.

It seems to me that we men and women in the schools should be at the bottom of the ladder trying to make your work easier finding these cases before they reach you. If a child is hungry, somehow we must feed him. If a child has bad relations at home, somehow we must endeavor to improve those relations. If there is a need of open-air treatment, then we will put the child in the open-air schools. If it is a case where the child is mentally defective, we will put him in a special class where we can give him the very best he is able to get. We will go to the very limit of that child's power to try to give him all the training that will make him as near as possible self-supporting. If he does become delinquent while with us, we shall endeavor to put him in special classes with men and women whose hearts are in the work and who know how to bring out the best that is in the children. That is the place we must bear in relation to your work. We are all doing probation work; we are but one link of a great chain; we are down at the bottom and I want to feel in my work that by doing the best we can and by coming in as close contact with you as possible, we may be able to make it possible for you to bring

to bear all the intelligence possible upon this problem; so that when the boy or girl is on probation you will be able to know the most that is possible; you will be able to give the best opportunity for manhood and womanhood.

We have up in the Education Building a little exhibit of what our children in the special classes are doing. That is but one illustration of how we are endeavoring to reach out to train these boys and girls, to use their hands, to go into different activities, possibly before they become your problem. It is an inspiration to find the spirit, the soul, that seems to be back of the work that you are doing. It is an encouragement to go back in my school work and feel we have your support and sympathy in our common work of making the lives of these boys and girls better, stronger, more hopeful.

FOURTH SESSION

Monday Afternoon, November 15, 1915

RECORDS AND REPORTS

SECRETARY CHUTE: This session is to discuss the general subject of probation officers' records and reports. I know of no subject that is more practical and important for the probation officer. After all, the probation officer's work has a great deal of routine to it. It is to a great degree scientific. It requires records; it requires system and routine. The importance of good records hardly needs to be emphasized. Our own interest in the work depends upon well kept records; the value of the work to the public depends upon well kept records; the development of the work depends upon well kept records.

You are all more or less familiar with the forms which the State Probation Commission has been supplying to the different courts. I looked up the matter before this session opened and I find that during the past year we have been supplying forty different courts with forms of some kind; very many have been furnished with the entire system of forms and we have sent out approximately 72,000 forms during the past year. Our general system of forms, before it was revised, is given in our manual, but since that manual was published, certain revisions and simplifications have been made, and of these I am going to speak briefly. There isn't one uniform system of records in this State. As the work of the different courts is conducted independently, judges and probation officers have different ideas. There should be more uniformity and we should establish more standards than we have. I am going to outline what I consider a model system of forms, after having studied the records of the officers in various parts of the State and the Nation, mentioning only the necessary forms which every probation officer ought to use in recording his work.

First, and very important is the Investigation Report. Cases, whether given to officers for preliminary investigation or given as probation cases without preliminary investigation, should have a complete investigation made and a record of that investigation

transcribed. The investigation report should be kept in a permanent folder. It must, in most cases, be given to the judge either in complete or summarized form. In most cases it is well for the probation officer to make a preliminary draft of that investigation in the field, copying it in the office. You are familiar with the investigation blanks that are shown in the manual and are supplied to the officers. It has been our opinion for some time that there was too much detail on these blanks. Accordingly, a revised form has been prepared. This is very similar, in fact, almost identical with the Investigation Blank which is now used in the Children's Court of New York City. This blank contains briefly the important facts that ought to be recorded on every probation case. I will not attempt to read or go over them, except to say we have included the name, address, sex, age, date of birth, nativity, residence, identifying description, family description (children, husband, wife, etc.), home conditions, neighborhood conditions, previous addresses, employment record in detail, the education, religion, affiliation with organizations, physical and mental condition — not in detail as on the old blank, but only room for a general statement of the important findings as to physical and mental condition. The same thing as to character, habits and associates, a complete tabulation of previous court records, institutional record, and two full pages for the supplementary report which is perhaps the most important part, the sources of information, facts as to the handling of the case, the address, disposition, date, and the probation officer's signature. Those, I think, are the essentials of the Investigation Report.

The second and equally important form is the Probation History. There is a difference of opinion as to whether these two forms can be combined into one. In my opinion, after studying and considering it very carefully, I believe they should be separate. There should be one blank for the investigation and another blank for the history. In the Court of Special Sessions of New York they have one blank which is too brief; and in the Magistrates' Courts they have adopted one blank, and I think there is too much on that blank. The two reports are handled separately and both are not kept in all cases. Therefore, it seems

to me it is best to have two blanks and to keep them together when the case is active. The ideal system of forms avoids duplication and makes it possible to put a thing down once and yet have it available to get at. So, for the probation history, we recommend the simple form which is now used in many courts of this State, a four-page blank containing none of the questions that appear on the investigation blank, simply the name, address, probation officer transferred to, charge, probation period and, under special conditions of probation, a memo of the money to be paid, disposition, results and a table which may be used to show the visits and reports and then three and one-half pages for a chronological history, showing under each date all the important things which happened in that case. Each of these forms are ordinary letter sheet size, to be filed in the ordinary letter size folder.

These are the two essential forms and if a probation officer fills them out completely on each case he doesn't absolutely need anything else. We recommend, however, in addition, an index card. The old index card of the Commission contained a good deal of information which repeated the information on the investigation blank. We have a new form which contains only indentifying facts; that is, the name, name of parents, name of father, name of mother, case number, date of birth, nativity, parents' nativity, identifying description, then the probation record and the court record.

I have come to the conclusion that two kinds of cards for all cases handled by the probation officers are sufficient, one for juveniles and one for adults, indicating whether they are placed on probation or whether they are simply investigated by the probation officers and then committed to an institution or given a suspended sentence.

In addition, there are several small forms which are of convenience to the probation officers and which the Commission has recommended; namely, the parents' report, a brief report which may be secured from the parents on the behavior of the child; the church record, one of the occasional forms; the probationer's card, which is quite important, and which we have always recommended to be used as a reminder to the probationer for his time of reporting and to show he is on probation. We have prepared one form

for all cases. It has been recently suggested to me that it might be well to change the wording as between children and adults so it would be more intelligible to children and less childish for adults, and I think that is a good suggestion.

Then, there are the forms used throughout the State for the transferring of probationers; modification of probation, and the order of probation, used especially in the county courts where cases are put on probation and the probation reports to the court.

The probation law requires a monthly report to the judge and many probation officers, I find, neglect this report. Some judges see all the cases once a month personally; others receive reports from probation officers on each case, and a great many judges do not receive a report of any kind regularly. We have always recommended that a monthly report of some kind be made to the judge. Where there are few cases it has occurred to me that it is a good plan to submit to the judge the probation history blanks; he can go over those and see what the probation officer has done and how the cases are getting along. Where he is not willing to go through those, the probation officer may prepare a summary on one of the forms supplied by this Commission. We supply a large blank for a monthly report to the judge containing the brief statistics which are found on your reports to the Commission, and a list of the probationers with the brief facts concerning each case. I think most judges would appreciate your showing some such form as this.

I want to say a word or two about probation officers' annual reports. The subject is apropos in connection with the statements this morning which perhaps sounded a trifle pessimistic as to the public support of our work. Here is a practical, concrete suggestion as to how we may obtain better support, better appropriations for probation work: make good annual reports and send them to boards of supervisors or city councils, and to the public generally, and get those reports in the newspapers. Some probation officers are doing this successfully. A good many more should. I would be glad to send to any probation officer a list of suggested tables which I think ought to be in every probation officer's annual report.

A good way to start a report is not with the statistics, but with a statement showing the bigness of the work, made readable and interesting. There is lots of work and expense in these reports, but if the probation officer can get out such a report once a year, I believe all the expense and work will be compensated for many times over. A report which is interesting and attractive is going to do more to increase the salaries paid to probation officers than anything else that could be done. It is not necessary to have printed reports to make them of value, although undoubtedly the printed report reaches a far larger number of people than the typewritten report. I have received some excellent typewritten reports which will be read by the boards of supervisors and other public officials and will help the work.

Finally, secure newspaper publicity for the reports. If the reports are interesting and if an effort is made to get them into the newspapers, there is no doubt of the value of that, because everybody reads the newspapers nowadays, and that is the way to get things over to the public.

MR. EVERSON: Sometime ago I had occasion to study practically all of the annual reports issued by the various children's courts in the United States and Canada and also whatever reports came to this country from abroad. I found that they were remarkable in the lack of material that they presented. It was unbelievable that a movement that had had so much publicity as the children's court had so little in the way of official presentation of the work. I believe Judge Lindsey's famous court in Denver has only issued one annual report. The primary purpose of the annual report should be to acquaint the public with what you are doing. It should be presented in such a way that the newspapers will take hold of it and give it to the public in a spicy form. Don't over sentimentalize it, but make it possible for the public to know exactly what you are trying to do.

As a further purpose of the report, it should present such sociological facts as are of interest to the scientific student so he can gather together information which will be valuable from the standpoint of a student who is trying to present the work of the

probation department in its relation to the other big movements of the day.

Lastly, I think the annual report should be an historical record of the achievement of the court. It is very often of value to see what you did five years ago and compare it with what you are doing.

As to the method of presentation; put the report in a popular form; make a statement in a popular way of what you are doing and then present it in such graphs and diagrams as you can; make your diagram simple, because when people run over an annual report they don't look it over carefully unless there is something to get the attention; make your graphs absolutely clear so that they will strike out from the pages. I also think pictures are very valuable. Put some good ones in your report.

Then, as to methods of preparation of your report. The preparation for the annual report should begin at the end of the first month and each month you should compile your statistics so at the end of the year it will only take a short time to put together the information gathered month by month. As a means of preparation you should devise proper forms upon which to enter things which you want to specially emphasize, and statistical data which you want to present.

Now, about the accuracy of the statistics. You read over statements of 30 per cent. of this, and 50 per cent. of that, but you don't believe it and, as a matter of fact, it is untrue. Many statistics are untrue, because you have not weighed the source of your information. For instance, on the probation blank of the New York Children's Court there appears the question, "Physical condition of child?" We should never be content to present answers to that question as statistics for the annual report for they are guesses made by the probation officer. You can draw an inference from the child's general appearance, but they should not be presented as candid facts for they are not right, not accurate and are not scientific. Another thing to be avoided is the proving of pet theories by your figures. Let your figures lead you rather than lead the figures in proving what you want them to prove. Figures won't lie unless you coach them to lie. Let the figures lead you.

I have reason to be wary of sources of statistics. I had occasion to assist in the compilation of the 1913 annual report of the Children's Court of New York, and we took the nativity statistics from the docket book. These facts or statements are taken from the police officer or the parents of the child. Of course, the police officer doesn't know the nativity of the parents and the parent is often liable to lie because they think that by saying they are American born they will receive more consideration than if they are foreign born. As a result, we tabulated these figures and I found after they had been published and after making a further study of the records on the probation blanks where the probation officers had checked up the nativity statistics that there was a wide divergence. The statistics were absolutely false because we had taken the word of the police officer without investigation. To be accurate you must rely more on the investigation of the probation officer than on the statement of the parents at the time of arraignment, because there is grave danger of error. Always be on the lookout for the validity of the sources of your statistics.

MR. FAGAN: To my mind, it is of great value to have a field notebook so that the work of the probation officer could be jotted down each day. It is well for a probation officer to keep such a notebook. At present some copy the information on the back of an envelope or back of the card. I hope to have a duplicate system of a daily notebook just the size of the ordinary diary; the probation officer will give us one sheet, turn in one and keep the other to be filed away for future reference. Our forms in the New York Children's Court are adopted from the original form of the State Probation Commission, but we did find there was a little bit too much in those forms. It was, in other words, killing the individuality of the probation officer. Some degree of individuality should be allowed them in writing the report so as to make it readable for the judge, because if the judge doesn't read your report it is killed. With that in mind, I had something to do with the working out of a form to allow the officers a wider latitude in writing their own story so as to make it more valuable to the judge and, were it not for the original blanks which taught us what questions to ask, such as

character, habits, etc., we would not have been able to write reports which are praised throughout the State.

Now, as to your case histories. I aimed to raise the standard of our case histories for you are judged by them. I don't care so much for the collection of statistics for the annual report as I do for the showing of the work done by the officer and that is the only way they can show it. In the cry of economy in New York City the probation officers were the only ones in the city departments to receive increases in salaries; one reason for this was that we had adequate records to show to the public. I received a great deal of criticism for advocating these records, but I saw that the day would come when we would stand or fall by our case histories.

MR. JAMES B. HALBERT, PROBATION OFFICER, NEW YORK CITY CHILDREN'S COURT: There is one sub-topic, "The Use of Receipts," in which I am very much interested. I would like to get some information as to whether or not the Commission recommends the use of receipts. Personally, in cases where restitution has been made by my probationers, I have never given my probationer a receipt and have refused to do it when asked to, but I have always insisted that the person who received the money which the probationer pays, give a receipt direct to the probationer. Some of the probation officers tell me I am doing wrong. I would like a little light on that subject.

SECRETARY CHUTE: The Commission furnishes both kinds of receipts and believes it is more satisfactory to the one who pays to get a receipt. We advise giving a receipt to the person who pays restriction and receiving a receipt from the one who receives it. The whole question of financial records is important. The probation officer cannot take too much care to put everything down in black and white when it is anything that has to do with the handling of money.

MR. JAMES A. GARRITY, CHIEF PROBATION OFFICER, COURT OF SPECIAL SESSIONS, YONKERS: My advice is to give a receipt to every person who pays him money. I happen to have a peculiar interest in receipts for, as a probation officer, I

was indicted by the grand jury of Westchester County and if it hadn't been for my receipts properly signed and my willingness to go before the grand jury and waive my rights of immunity, I would probably be in jail instead of here in Albany. I want to impress that very forcibly upon the probation officers assembled here. Receive no money from any source without giving a receipt. In our city to-day, the man who is fined \$5 for some offense gets a receipt for his money. Our court has receipt books for all money paid. So I say again, don't jeopardize your happiness and the happiness of your family by failing to give a receipt and take one in all cases where money is being passed over.

I want to say a word about records. The simpler our blanks and the less time spent on trying to do bookkeeping, the better the service will be; the omission of duplication on our blanks will save time, money and energy, and I think every man or woman engaged in this work will agree when I say that it isn't statistics or the filling in of blanks which counts, but that it is the actual probation work; if the probation officer is honestly trying to do his level best for his probationer it isn't the filling in of a great many answers on blanks that is going to secure that benefit; so, let us get away as far as possible from too much detail on blanks.

THE RELATION OF THE PROBATION OFFICER TO THE FAMILIES OF PROBATIONERS (WITH SPECIAL REFERENCE TO WOMEN AND GIRLS)

MISS FRANCES E. LEITCH, PROBATION OFFICER, COURT OF SPECIAL SESSIONS, BROOKLYN: The first sub-topic is: "Finding out the cause of unhappy family conditions." I think we often feel when we go into a home that we see the cause of the trouble at once and think we have settled it all, but oftentimes quite a while elapses before we get down to the real facts of the case and discover the many excuses for the woman's wrongdoing.

Then, the next topic: "How can the probation officer help and advise regarding the management of household affairs; the expenditure of the family income." I find in the majority of cases that I wonder how the women managed at all with the income which the family has. The trouble is that very few have a regular income. We all know what we can do if we know what amount of money we can use, but many women never know what they are going to get. They pay the rent generally, although sometimes they are dispossessed, but that is the first thing they look after. I am always surprised to find out how nicely the children act, and I ask them, "What did you have for supper?" "Bread and tea." "What for dinner?" "Bread and tea." Very seldom they have a good meal. Of course, we come across many careless housekeepers. You know it is hard to plan for so many on so little, so I think we must be patient. The trouble is with many of us that we hold our own standard of living and expect these people to conform to it. There are so many who have never had training and have been careless and whose mothers never taught them to keep house. It is very discouraging to see an untidy house and to see the mother without any thought of responsibility or any idea as to how to put that house in order.

After we have gone into all this and learned about the family income, we come down to this question, how shall we guard against too much intrusion into family affairs? Do you think there are

any family affairs we haven't been into by this time? I want all these points brought out.

Then the last topic: "Placing a girl or woman in a family not her own." That is a very difficult thing to do and I think it should be the last thing done by any probation officer. If the home is at all right or can be made right, the girl is always better with her own relatives. No matter how kind the friends are, they get tired; but a girl's own people always have the interests of that girl at heart.

MISS ALICE C. SMITH, PROBATION OFFICER, NIGHT COURT FOR WOMEN, NEW YORK CITY: "Finding out the cause of unhappy family conditions." That depends entirely upon the tactful probation officer; I have always felt that probation officers were born and not merely taken from the civil service list and it seems to me that the tactful woman can often find out what the difficulty is; she has her own way of talking to the people there and she cannot explain how she accomplishes it.

"How can the probation officer help and advise regarding the management of household affairs; the expenditure of the family income." Perhaps we have more advantages in New York City; while we have many clubs, at the same time I do think we have a great deal of help that the smaller places do not have. I have sent women to cooking school so they would at least get the theory of cooking and know something of food values. If the mother cannot go, I have asked the daughter to go, and in that way she would become interested in the family life and help improve it.

"How can the probation officer aid in making the home more attractive?" That is a very difficult problem. I always sit down and talk to my probationer myself. I say, "Now, I want to ask you some questions; there are some things I must know, because you have come before the court and there are some questions I might ask you that you are at liberty to refuse to answer." I go into the home in that same way. First of all, I become friendly with the girl and with the family and advise them as best I can, but, as I have said on the other subjects, it is difficult to say what you do because you don't know. Each problem is different from

the other and when you are through and have accomplished some good you don't know how you have done it.

A very serious question arises when placing girls in families or some place else to board. Sometimes I have girls who haven't a home and sometimes they have homes which are not proper places; occasionally a woman makes a complaint against her daughter and absolutely refuses to take her back. I say, "Madam, what do you expect me to do; do you expect me to take her home with me?" Very often the girl is left for me to take care of. I have tried to put them in normal homes, but when the girl comes home at night she feels she is outside of the family group.

I have just had one case of a French girl placed on probation the first of last year. When she was placed on probation she said she had no relatives in this country, and that they were in Paris. I kept her until one night a detective from headquarters walked in and said, "Do you know anything about a girl by the name of so and so?" "Yes, I know quite a good deal about her." As a matter of fact, the girl was sitting at the other end of the table. "There has been a general alarm for her and we are not able to locate her." "Well, that is too bad," and I could hardly keep from laughing; I guess he thought there was something queer about it. I said to him, "The detective force is not very clever, because I have taken this case in and out the court perhaps a dozen times, and this is the girl right here." "Well, her mother wants her." "Where is her mother?" Up to that time I thought her mother was in Paris. After some time I found her father was working in a large hotel. I tried placing the girl, however, in her own home. She said to me, "I might as well tell you, I won't stay there." I again took her out and placed her in a boarding house for girls. She finally began to keep company with a young man and they were engaged and last Saturday they were married. She was French and he was Italian. I took her to the priest of the parish and I told the priest the situation and told him that I would not take the responsibility of having her married. The young fellow said he had been to her mother. So you see the responsibility of taking the girl out while you have her; you must try to adjust the difficulty in the home that has driven her away, and I can assure you it is a difficult thing to do some times; but

at the same time I do not think there is anyone of us that want to take the responsibility of taking a girl or boy from their own home and not trying to overcome the difficulty that has driven them away from it; and to put the girl on friendly terms with her mother and the rest of her family.

HON. EDWIN MULREADY, COMMISSIONER OF LABOR, BOSTON: In my experience as probation officer for eleven years, I, unfortunately, had to do the work that was done in the cases of women brought before the court, and I would prefer dealing with women rather than men. I recall some years ago Judge DeCourcy, of Massachusetts, whom we look upon as the father of probation, asked me to give him the most remarkable case in my experience, for he wanted to use it as a basis for a speech. I told him the case of a man and woman, but just now I speak of the woman. I found three girls in jail, sentenced to the reformatory for women. I have said that the reformatory in Massachusetts is designed for the worst class of women brought before the court. Somehow or other the courts have got it in their minds that they won't send a woman there if there is anything else that can be done for them. The lower court had sentenced these girls to the reformatory. Two of them went, the other appealed. She was nineteen years of age, had worked in a shoe factory, was a girl of very bad reputation and was somewhat of a drunkard at nineteen years of age. I am sure any probation officer here would condemn the probation officer at that court for doing what I tried to do. I investigated and found out she was one of six children and that the mother of the family had been arrested for larceny and drunkenness. Now, it might be well for me to sit down and ask you what you would do for that girl who was living away from home. I put her back in her home, took her mother on probation and made a great success of her mother because there was one saving spot in that home; that was the father who was a decent man. That girl has turned out to be a remarkably good member of society. The other two girls came out of the reformatory and this girl brought them to me and said, "When you speak to them, speak as you did to me the first time," and those two, although

they haven't been models, yet they haven't been in the reformatory again.

I went down to the Night Court in New York and saw the number of cases handled. How can any personal attention be given to those cases? I don't see how they do it at all, and until the communities are educated to the point where they will see it is money well spent to care for and look out for these girls and will give us an opportunity to spend that money on the cases that come before the court, I advise you to ask for more money because you deserve it; ask for it because the community will well spend the money that they spend in helping the girls that come into court.

FIFTH SESSION

Monday Evening, November 15, 1915

DEVELOPMENTS OF THE YEAR IN THE FIELD OF PROBATION

HON. HOMER FOLKS, PRESIDENT, STATE PROBATION COMMISSION: It has become customary at the annual Conference of Probation Officers, for the president of the Probation Commission to make a brief survey of what has happened during the year in the matter of probation in the State of New York.

The outstanding fact of the past year, looking at our subject broadly, is that on the 1st of October, 1914, there were on probation 10,925 persons who had been convicted of some offense sufficiently serious to warrant their release in the community on condition of good behavior, and on October 1st, 1915, that number had increased to 11,907, an increase of 982. The responsibility of exercising supervision over as large a number of persons as that is a very substantial one. Nearly 12,000 people is considerably more than half as many as there are in all the penal and reformatory institutions in the State combined. In a few years the number on probation has grown to be more than half as big as the number of inmates in all the penal and reformatory institutions of the State, the cities, counties, and all private institutions for delinquents besides. The number of different persons who were placed on probation during the year is still more surprising; namely, 18,708. That shows that with an average census of about 12,000 and with 18,000 coming on during the year, the average period of probation at the present time is about two-thirds of a year, or eight months. That is a great deal better than it was a few years ago when there were many cases of probation with terms of one month to three months. That was one of the weak points in our armour; it was too short an average period.

These 12,000 persons were very unevenly divided as between

the sexes. There were 10,582 of the male sex and 1,325 women and girls.

The number of salaried probation officers who are looking after all these people increased by 10 during the year, and at the end of the year numbered 182. If you do a little mental arithmetic and divide your 12,000 by 182, you will discover that that means an average of 65 probationers. That is a pretty good showing. If they didn't have such an extremely large number of preliminary investigations to make in order to decide who should be placed on probation, they could do pretty good work with an average of 65, but in some cases 50 and even 80 per cent. of their time is taken up with these preliminary inquiries, thereby reducing the amount of time available for the subsequent and real probationary oversight. The number of these investigations made during the year shows a gratifying increase. It also shows what a very large part of the work it is. There were 26,843 investigations made by probation officers of the previous history and circumstances of persons convicted of offenses in order to give the information to the judge on which he might base his action. That is to be compared with 24,903 made the year before.

We have one interesting bit of information that we have never had before. Those of you who are probation officers will recall that a year ago we added a question to that monthly report blank on which you rack your brains at the end of the month in order to make a report to the State Commission; that question was as to how many visits had been made to the homes or places of employment of those on probation under your care. That is, eliminating the investigations of those not yet placed on probation and taking into account only those already placed under your probationary oversight, how many times were visits made to them — not their coming to see you, but your going out personally to see them. We have reports for one year — the first I say we ever have had — and those show a number of visits which I am sure is gratifying: 88,336, or, for our 12,000 persons, that means an average of between 7 and 8 visits per year to the individual probationer under oversight. Of course, sometimes it would be two, one for a part of the period and one for another part, but for each

year it meant an average of from 7 to 8 visits, or one about every six weeks. That is a better showing than I had expected would be made. I think it is a very gratifying thing that we may feel that the oversight over this tremendously large number of people is as good as that would indicate.

The financial aspects of the question are interesting and important. One of the jobs of the probation officers is the collection of money in non-support cases. Last year, that amounted to \$102,988, as compared with \$96,768 the year before. The money collected from those released on probation to pay fines by instalments amounted to \$18,598. The payments of monies in restitution has always particularly appealed to me as a very ethical, sane and just sort of procedure; where a man has taken that which belongs to another or has done an injury, he should be required to make some kind of restitution while undergoing probationary supervision and I was especially pleased to see that the payments made by probationers in the way of restitution to those whom they had wronged increased from \$19,216, the preceding year, to \$27,816 last year.

The probation officer is worthy of his hire and, generally speaking, up to this time he has had a very insufficient salary. It is very pleasing to me that during the year there were 35 increases in the salaries of probation officers, showing that the communities are understanding better the value of the work they do and that they will not permanently pay more to the man who meets the judge and takes his hat and coat and yells at the man who makes a noise in court, than is paid to the person who not only may be in court, but whose real duties begin when the court is over and who must spend his afternoons, evenings and Sundays in looking after his probationers in all parts of the city. I am sure the up-state officers will be glad to know that the New York City officers in the new budget, notwithstanding all the economy procedures and that terrible standardization bureau, suffered no cuts in their salaries, but, on the contrary, a minimum salary of \$1200 was established with increase to \$1500 for practically all who have served two years.

The increase in the number of county probation officers was very gratifying. Like the tuberculosis hospitals, we have to go

from county to county and try to induce the boards of supervisors to establish the position of county probation officer to serve not only for the county court, but also for the justices of the peace courts. Thirty-three counties, more than half of the counties in the State, have now established county probation officers.

Some important changes affecting probation in New York City occurred, one of which was the making of a separate Children's Court, practically separate from the Court of Special Sessions. Another was the establishing of the office of Chief Probation Officer of the Magistrates Courts for the Greater city and for the Children's Court.

What has the State Probation Commission had to do with all of it. Well, it would be hard to define exactly what we have done and what we haven't done, because we have never studied the statute with the idea of seeing how little it positively requires us to do, but rather proceeded along the basis of finding out how much it would allow us to do toward building up the probation system without running counter to the provision of the law. In the first place, we have continued to receive from the probation officers their regular monthly reports. I think this comes pretty near being the corner stone of good work, because it requires each of you to recognize that you are responsible for the supervision not of a vague and indefinite number of people, but of a precise number of people; you have to count up those who have passed out of your care during the month and put them into one or the other of those cubby-holes — re-arrested and committed, or not improved, or improved, or whatever it is. In other words, you have to take soundings; size up the situation; find out where you are at and look your job squarely in the face and see how far your work measures up to a reasonable performance of the job assigned to you.

In the second place, we have visited most of the county probation officers and many of the city probation officers in the person of our members or of our secretary or assistant secretary, to confer with them in regard to their work, to bring them news of what is going on elsewhere, and to make a constructive, friendly examination of what is going on. We have made two or three

special studies during the year, one of which I would like to refer to as being rather typical.

At the invitation of the judges, we spent some time looking into the work of the Buffalo City Court to ascertain the amount of probation work to be done and the number of people required to do it; after a very careful and searching inquiry on the premises we reached the conclusion that at least four additional men officers and two women officers were essential to make the work sound. Our report and recommendations were submitted to the authorities of the city and representatives of the Commission appeared before the city authorities of Buffalo and stated to them the views of the State Commission in regard to the needs of the Buffalo City Court. That contributed to the fact that in the new budget they increased the number of probation officers by six — four men and two women.

We not only have to do what we can to keep in touch with what is in existence but also to promote that which is not in being as yet, but should be. Westchester County now has a county probation officer and hasn't had one before. It wasn't particularly our business that I know of to put a great deal of time in that, except that in a general sense we are supposed to see that the probation law is carried out, but our indefatigable secretary visited Westchester County and conferred with the supervisors individually and then appeared before the board and induced the county judge to recommend a county probation officer, whereupon it was promptly established by law. Then it being a civil service position, the question arose how to get a good man. Obviously, if that were simply left to chance and those who happened to hear of it only, took the examination, we might have a very poor list, so we took the liberty of communicating with all the newspapers of the county, making a broad public announcement of the fact and sending a circular letter to the clergymen and social workers and those interested in the civic things all through the county, asking them to bring this forthcoming examination to the notice of any suitable persons who were likely to make good probation officers. That stirred up a goodly number of people who would never have heard of it otherwise. We have a standard package of

literature on probation, including sample examination questions, copies of the laws, the Manual for Probation Officers, and pamphlets that was sent out to about sixty candidates. Then came the examination. Examinations that are made up perfunctorily or by people who know but little about probation are likely to result unsatisfactorily, so after some suggestions and diplomacy the Civil Service Commission invited the State Probation Commission to assist in holding the examination. Representatives of the Commission met with the civil service authorities and practically conducted the oral part of the examination. The outcome was a very excellent eligible list from which the man who stood highest was selected, an altogether suitable and admirable appointment, a man who has proved his exceptional interest in work of that kind, who wouldn't have had the slightest kind of political influence, and who gives every evidence of being an altogether satisfactory and useful officer.

We have assisted in seven different county examinations and two city examinations and have carried on nine separate movements for the establishment of the positions of probation officer by counties or cities.

The last thing to which I wish to call your attention for a moment is in a way the most interesting. The question continually arises: "Do reformatories reform?" Now the question has been raised: "Does the probation system reform; what happens to these people after the probation officers are through with them?" We have intended for some time to secure information on that point and in the course of the last year we suggested to the Chief Probation Officer of one of our larger counties, where the work has been very good and where the cases which come from the county court are cases of persons who have committed serious offenses, that he should make a careful re-examination as to the conduct of some of those under his care at some time in the past, taking them seriatim during a given period of time. He did so with a great deal of care, taking all the cases given him in October, 1912. His examination was made in the summer of 1915, a year and a half after the expiration of the probationary period in most cases, and two years and ten months since the cases

first came into the care of the office. I want to read you a sample of one of the cases.

The first man was 29 years of age, his offense was abandonment, and he had been arrested once before for the same thing. He drank to excess, gambled and deserted his family. At the time the probation period ended, his home had been re-established; he had a good position, seemed to be temperate in his habits, and had formed good associations. Now, a year and a half after that, and three years from the time of his conviction, we find the following: Earning \$18 weekly in the employ of a large industrial concern; wages have been raised three times; his wife reports that her married life has been extremely happy; family is well clothed, and their home bears evidence of good living conditions; former employer, neighbors and others state that defendant has been industrious and thrifty and has shown marked improvement in his personal habits, and especially in his attitude towards his wife and child. Since his discharge he has had his life insured in a well-known fraternal organization; no court appearance since he was placed on probation.

That is the acid test of a year and a half after the end of probationary supervision.

There was 28 of those men who had been placed under the care of the probation office in this county in the month of October, 1912, and what happened to them is as follows: One died; removed to other locality with permission, 2; absconded, 1; re-arrested, 5; fair improvement indicated, 2; permanent and substantial improvement clearly indicated, 17. Seventeen out of the 25 who could be followed have reconstructed homes, and hold positions of responsibility and trust; there is every evidence that they have been permanently and substantially benefited by their probation, and to all appearances permanently removed from the ranks of criminals. This study has given me a greater degree of security, confidence and satisfaction in the untimate results of our probation work in serious cases, than any other examination that has so far been made.

EFFECTIVE PROBATION: ITS PLACE IN THE TREATMENT OF CRIME

GOVERNOR CHARLES S. WHITMAN: The privilege of welcoming a large group of probation officers from all parts of the State to mutual conference on methods and results is one which very few of my predecessors in office could have enjoyed. While the punishment of crime is one of the oldest, if not the oldest, function of government everywhere, you

represent the latest and newest development in that age-old public duty. The germ of probation comes down from a much earlier time when first judges were moved to compassion by the youth or inexperience of convicted offenders and ventured to restrain the rigors of the law and to give to certain of the more youthful and promising of those convicted another chance. The embodiment of this practice in statutory form and its development in an organized manner is, however, so recent that it is wholly within the experience of many of us here.

My public career has been almost entirely co-extensive with the existence in this State of the probation law. I entered office the year after the law was adopted and I have been closely associated with the administration of the criminal law and have had an opportunity which comes to very few men. I question if any other man not directly associated or engaged in the work of probation, has had the opportunity to observe its work so intimately and for so long experience of many of us here.

The first statute definitely authorizing the use of probation in this State was enacted in 1901, only 14 years ago. The growth of probation since that time has been phenomenal. While the general impression is that the prison population of the State has been increasing very rapidly in recent years, a careful analysis of the figures made by the State Probation Commission fails to bear out this impression. This analysis shows that during the decade 1905 to 1915, the total population of our penal and reformatory institutions for adults and juveniles increased from 17,011 to 20,185, or 18.6 per cent. During this same decade, the population of the State increased 20.8 per cent. In fact, the penal and reformatory population appears to be the conspicuous exception so far as public institutions go; the insane and other classes of dependents tending to increase apparently at a greater rate than the population as a whole.

During this same period of time, however, the number of persons convicted of offenses and released under the care of probation officers has increased enormously. In 1905, there was no agency for collecting statistics as to the numbers on probation. The first figure available was that collected by the State Proba-

tion Commission in the first year of its existence at the end of 1907. At that time there were on probation in this State 1,672 persons. At the end of 1914 the number of persons on probation had increased to 10,925, which is a little over one-half as many as the total penal and reformatory population of the State. Without the probation system undoubtedly a large number of these persons would have been sent to institutions and the penal and reformatory population would undoubtedly have increased considerably faster than the population of the State. Others undoubtedly would have been released under suspended sentence, but without any oversight. As to both classes, assuming that the probationary oversight is effective and is followed up, the change from previous methods is highly desirable.

A different phase of the growth of the probation system, however, impresses me still more favorably and seems to me cause for a deeper satisfaction than the growth in the number of those on probation. The number of probation officers employed in the courts of this State to devote their entire time to the work has increased from 35 in 1907 to a total of 184 at present. In addition to this goodly number of full-time probation officers, 299 volunteers are devoting a portion of their time to the same service. My statement that the increase in the number of full-time probation officers is even more gratifying than the increase in the number on probation is due to the fact that along with a lively sense of the value of the probation system rightly used, I have also a strong conviction that when improperly or inefficiently used the probation system contains possibilities of serious evil.

The history of the treatment of crime shows that repression and severity, as such, have always failed to accomplish their intended purposes. The most casual as well as the most searching scrutiny of the history of the criminal law and its enforcement must convince any one that the severity of punishment meted out to relatively unimportant offenses as well as to the most serious ones did not have any deterrent effect. On the other hand, while it is neither necessary nor desirable to deal with law-breakers with severity it is necessary and will always be necessary to deal with them with firmness and decision and nowhere is this more

essential than in the operations of the probation system. The essence of probation is that the probationer is released on good behavior and that if his behavior is not good he is to be subjected to the more rigorous discipline of a reformatory or penal institution. This is almost in the nature of a contract between the State and the offender. It is essential that it be lived up to. It is essential that when the State in the person of its courts says to a person you are to remain at large only if you observe certain conditions, it should mean what it says and act accordingly. The whole object of the treatment of an offender, whether by probation or institution, is to build up in him orderly, law-abiding habits. How can we expect him to hold himself well in hand, to live up to his promises, to be consistent, if the State itself in dealing with him fails to show these qualities? If the State, as represented in its courts, shows flabbiness, uncertainty, indecision, in common parlance, "bluffing" in its dealings with probationers, how can we expect them to be free from these qualities in their dealings with us?

Further ground for satisfaction is found in an examination of the methods which have been and are being worked out for actually knowing about the conduct of persons on probation. It is undoubtedly true that at no time in the past have the courts of the State been as well informed in regard to what probationers are actually doing, what sort of lives they are leading and whether or not they are making good on their promises, as at the present time. To the State Probation Commission we owe a large debt for their consistent efforts during the past decade to enforce this view, to devise and recommend to the various courts and probation officers a more consistent and more searching supervision over those released on probation.

This work is not yet finished. Just as our penal and reformatory institutions are far from embodying the best principles of penology and reformation, so our probation system as a whole comes far short of realizing in all localities and in all respects that which we would all recognize as an adequate and efficient standard. I have no doubt that a full knowledge of all the facts as they now exist would show that not all of those who are

reported by probation officers as doing reasonably well are as a matter of fact observing either the spirit or the letter of the terms of their release. I have no doubt that among the ten thousand who are now at large on probation there are some who are continuing the evil associations, the evil habits and the downright law-breaking which originally brought them before the courts and are successfully concealing these facts from the probation officers under whose supervision they are supposed to be and from the courts whose leniency they are enjoying.

The task of reducing this margin of error to a minimum rests under our present statutes primarily upon the courts of the State. They are the responsible administrators of the probation law. They appoint the probation officers, direct them as to their duties, receive their reports and are completely and wholly responsible for whatever is done. The State Probation Commission has only the power of making inquiries, of making recommendations, and of contributing to the formation of public opinion in regard to the operations of the system and of recommending its conservative extension. Technically and statutorially these powers are not extensive. Practically, in a democratic community governed by public opinion in which facts are in the long run the deciding consideration, such powers of inquiry and recommendation are exceedingly influential when wisely and conservatively used as they appear to have been at the hands of the State Probation Commission. This Commission was originally appointed by Governor Hughes and has had a continuous and consistent history and policy from the beginning to the present with relatively slight change in its membership. Fortunate are those departments of the State government which are able under all the shifting and changing conditions of political life and conditions in the State to preserve continuity of policy and development through a series of years without at the same time falling into the opposite errors of traditionalism and dead routine.

It must be recognized, however, that under our existing statutes and under any statutes which are likely to be enacted, it is impossible for the probation system to be thoroughly efficient and to fully protect the interests of the community unless the

courts do their part with careful discrimination and with consistency and decision. There are certain classes of persons who obviously are not suitable for probation. It is a travesty to place hardened and convicted offenders upon probation, when there is no indication of any probability of change in their behavior. Nobody can be sure who will respond to clemency and friendly oversight, but it is fairly obvious that a considerable number of persons will not.

Nothing tends to bring the probation system into disrepute so quickly as any inclination on the part of the court to use it as a cloak, to speak plainly, for favoritism. We all know the influences which may be and are too often brought to bear upon the courts for leniency in behalf of convicted persons irrespective of the circumstances of their offenses and of the probability of any improvement on their part. Whether these influences be definite and expressed or are only to be found in the atmosphere of the court and of the community, they are nevertheless very real and in many cases very powerful. Should any court ever be so disposed (we are not saying that it does happen) as to wish to release those convicted of more or less serious offenses out of consideration for their friends, we must all recognize that the probation system offers a very convenient opportunity. The fact that the release is but conditional and that the offender is supposed to be under rigid supervision, in a measure tends to justify the failure to impose a severer penalty.

Superficial judgments and weak sentimentality, may, however, be quite as serious evils as those prompted by more sinister influences. The credulity which some courts have at times shown in the selection of persons to be placed on probation and in the blind acceptance of the favorable reports of probation officers when the slightest knowledge of the facts as to the large numbers under the supervision of these probation officers would show that it is manifestly impossible for them to have any real and thorough knowledge of the conduct of their probationers, are seriously disturbing to all those who wish to see the development of a consistent, careful probation system.

Another vital point at which the influence of the court is paramount is in dealing with those who fail to observe the terms and

conditions of their release. It is not desirable indeed that every technical violation of the terms of an offender's release should be dealt with summarily and result in his commitment to a reformatory or penal institution. The circumstance of the violation, the fact as to whether it is exceptional or habitual, the spirit of the probationer, his attitude toward the community, all should be taken into consideration; but when it is evident that he has failed to take probation seriously, when there is nothing in his conduct to really justify the belief that he is refraining from ways of life which will result in further offenses, then it is essential if the probation system is to continue to possess the confidence of the community that the probation officer should report these facts to the court and that the court should act upon them with firmness and decision.

In still another respect the court is the prevailing factor. The probation officers are appointed by the judges of their respective courts. There have been substantial differences of opinion between some of the courts of the State and the State Probation Commission as to the manner in which these appointments should be made, the judges feeling that in their choice of probation officers they should be wholly untrammelled and the Probation Commission believing that with an intelligent and unbiased competitive examination an eligible list could be prepared which would offer the court a better range of appointments than in most cases would be likely to be made under existing political conditions without such a safeguard. No one can be familiar with the developments of the last decade without feeling that the attitude taken by the State Probation Commission has been more than justified by the event. The examinations which have been held for the position of probation officer by municipal or State civil service commissions have been almost uniformly conducted with the aid of experts; they have taken into account the experience and personal qualifications of the candidates and have offered for consideration an eligible list which has contained material suitable for appointment and in many cases, so far as one can observe, the best available in a community at the time for the salaries offered. A comparison of the work done in those courts in which the ap-

pointments have been made from eligible lists as compared with the work done in earlier times before the merit system in these positions was established, and a comparison of the efficiency of the probation officers chosen by competition as compared with those who were not, fully justifies not only the retention but the extension of the competitive principle in the selection of probation officers.

If the efficiency of the reformatory or penal institutions depends largely upon the personnel of its officers and employees, this is true to a still higher degree of probation. The probation officer becomes the representative of the community. He is, in fact, the only person having direct relations with the probationer while he is on probation. His judgment, his knowledge, his integrity, his discernment, are the corner stones upon which the system must be founded. If these are lacking nothing can take their places. Those most competent to speak with authority are of the opinion that in all these respects the average of the probation officers of the State has steadily risen, that the large number of those now in the service represent distinctly higher averages of training, equipment and efficiency than the smaller number of earlier years. It is essential that these standards be still further raised. Inefficiency in the probation service must be sought out and dealt with in order that the machinery of the courts for discovering and dealing effectively with incompetence or inattention on the part of probation officers may be perfected. The same decision and firmness should be displayed by the court in dealing with the probation officers as they are expected to display in dealing with the probationers.

In its examination of the work that is being done in the various courts, it is highly important that the State Probation Commission should not be satisfied with a superficial or casual examination of the records or with any general statements of what the plans and methods of the court and its probation officers are. They should increasingly get behind any general statements of what the aims and plans are and definitely ascertain what is actually done in relation to various individuals placed on probation under the care of the court, being always careful not to draw unfounded generalizations from specific cases.

In order to secure higher standards of service, in order to retain persons of training and equipment, it is essential that the salaries paid should bear some relation to the responsibility of the work done. It is ridiculous that salaries paid persons exercising such highly responsible duties as probation officer in many courts are below, often far below, those paid to persons exercising far less serious and responsible duties. Salaries should be so arranged as to offer opportunity for promotion, based not only on length of service, but on efficiency of service.

It is a wise provision of law which permits each board of supervisors of a county to employ probation officers. Consistent with the general principle of home rule, the employment of such an officer is optional with the authorities of each county. It is distinctly encouraging that the 57 counties outside of Greater New York not less than 29 are at this time employing salaried county probation officers whose services are available not only for the county court, but also for the magistrates' and justices' courts not otherwise provided with probation service. The time should be close at hand when in every county of the State there should be available for every court in the county the services of a competent, efficient probation officer.

All that has been said as to the necessity of making the probationary oversight substantial and effective applies, of course, equally to the release of persons on parole from penal and reformatory institutions. Indeed, there are many points of similarity, many parallels between the operations of the probation and the parole systems. While the probation system is not perfect nor complete, the parole system as it exists in connection with our penal institutions is far less complete, and the operations of the indeterminate sentence are correspondingly unsatisfactory and fraught with possibilities of evil. It is highly desirable that the supervision of those released from penal and reformatory institutions on parole should be developed on the same lines of supervision and responsibility as the probation system. There is much to be said for some definite correlation of the two lines of work in the various localities of the State.

If I have ventured to point out some of the imperfections of

probation it is not because of any failure to appreciate its exceeding value. It is undoubtedly the most important recent development in the administration of the criminal law. It has a very important and permanent place in our system. We have not yet reached the maximum of its wise and desirable development. It is sound in principle and large in possibilities for public benefit. No one can at this time foresee the extent to which it may take the place of the far more expensive institutional methods. It is obvious, however, that in the long run its growth must depend upon its soundness. Any who have any connection with the system can perform no more important service than to see to it that every particle of unsound timber is cut out, that we build from the bottom up of sound and lasting material, with skilful and reliable workmanship, in order that the inevitable waves of reaction and skepticism which are bound to come may not endanger the good with the bad, the strong with the weak in our system.

PRESIDENT FOLKS: I am sure that the probation officers and all those present wish me to express their very hearty appreciation of the Governor's presence and of his words of encouragement as well as of caution. His message seems to me to be exactly the one which we need to receive and to ponder: that we are entrusted with the administration of a very important part of the State's work and that it is our very serious responsibility to make that work perfectly sound and lasting.

We have had a good many ideas come from Massachusetts for our social work. The placing of children in homes on any large scale was taken up in Massachusetts before it was taken up in any other State in the country, and the probation plan was an organized statutory plan in Massachusetts for about thirty years before it was started anywhere else on a definite plan. In recent years Massachusetts has reformed and reorganized its work a great deal and in the course of doing that a large part of the responsibility has fallen upon the executive officer of the Massachusetts State Probation Commission. He was recently called from that very responsible duty to one which has still more responsibility, that of Commissioner of Labor of Massachusetts. He always

responds, whenever it is at all possible, to any request for co-operation and help from New York, and I almost feel that he is one of us. Hon. Edwin Mulready will now address you.

THE FUTURE OF ADULT PROBATION: ITS POSSIBILITIES AND NECESSARY LIMITATIONS,

HON. EDWIN MULREADY, COMMISSIONER OF LABOR OF MASSACHUSETTS: I want to talk particularly to the probation officers, and I want to thank the Probation Commission of the great State of New York for giving me the opportunity. I want to thank the Governor of the State for warning us of the great dangers that might come from the mis-use of probation.

Six years ago I had the privilege and pleasure of coming down to Albany and talking to the probation officers. I wouldn't have dared then to talk about the future of probation, but to-night that subject is assigned and I must address myself to it.

The Chairman has alluded to my change of occupation, but, friends, I shall never live long enough to lose my interest in the great cause of probation, the help of those who are unable to help themselves, the most blessed work that we can engage in.

There are some compensations with approaching age and let me tell you one that came to me. The other night, riding on a crowded train, a lady turned to me and said, "Is this Mr. Mulready?" I said, "It is." "You don't remember me, but my maiden name was so and so," and I remembered her in a minute. She said, "I have tried to come to you and tell how much I owe you, but I didn't have the courage to face you in your own home and as I sat here I thought perhaps I would let you go without speaking, but now I want to tell you how happy I am. I married the superintendent of a factory; these are our two children. Sixteen years ago when you found me in jail you were the only one to show any interest in me; thrown out by my family, abandoned by everybody, you had confidence in me; you went out and found a good woman who would mother me and give me a home with her own little girl and I owe everything to you." "You owe it all to the Commonwealth of Massachusetts that had the wisdom to make a law by which an humble instrument could help just such girls as you." I know our Governor said we mustn't build up a case on

specific cases, but I also know that this whole world is made up of units one after the other and every time we multiply such cases as that it shows the great wisdom of those who provided the law.

I gather courage from the work that probation officers are doing in this part of the country in co-operating with other agencies in the study of all social questions. I am officially connected with an insane asylum. I like to go back for a dozen, fifteen or twenty years and note the changes that have taken place in the care of the insane. I wonder if you are familiar with these great changes. The time was when in nearly every little town you could find people who would take their own insane and try to care for them ; take them away from the gaze of their neighbors and try in some way to hide what they thought was a curse from God. All that is changed and our great states have taken over the care of the insane. This week in Massachusetts we shall hold a great conference to study the question of mental hygiene. Now we are beginning to realize that our duty is not done when we build great big asylums and put into them those who are suffering from insanity.

As great changes have taken place in the care of paupers. It was no uncommon thing in New England to take the paupers and put them out, not to the highest, but to the lowest bidder, find out how little a man would bid to take the paupers of the town and care for them. That has all changed now.

With all those great changes, we have not made the changes that ought to be made in our treatment of the offender against the law. We have lived too long according to that old song, " We live for those who love us, and the good that we can do." Anybody will love those who love them, but to work for those who offend is charity in the highest sense. We have punished the offender but we haven't shown him that consideration which belongs to him.

I have gone all about the State of Massachusetts and to those who would listen I have said that many of these people whom we call criminals are but victims of conditions which you and I in many cases place about them. If we could look into the homes that the probation officers must visit and understand the other side of life, we would begin to understand that the offender against the

law is the victim many times of our neglect. I am not preaching leniency; I would preach a higher standard of justice. I would understand the man at the bar before he is sentenced, and the probation system, by real effective investigation, gives us the first opportunity to understand the offender.

Some of you have known, many of you have heard of Judge Baker of the Boston Juvenile Court. A little boy was brought into his court, not long ago, charged with breaking and entering. It was shown by the records that he had been shut up a great portion of his life in the reformatory institutions of the State. He had been to the Parental School, the Lyman School, and other reformatory institutions, and had been arrested on every occasion for breaking and entering. Notwithstanding this record, Judge Baker placed the boy on probation. In two weeks he was back in court charged with breaking and entering; he was then about sixteen years of age. Then some wise man said, I wonder if this boy is just right. Wouldn't it be a good idea to have him examined? And so they sent out and got a physician. As a result, this boy was sent to the insane asylum where to-day he is a raving maniac and will be until he dies, a hopelessly insane boy, an irresponsible boy who had been punished by the community over and over again.

Two years ago we had in Massachusetts a so-called White Slave Commission to study vice all over the State. It was a State Commission appointed by the Governor with money to conduct a study. I was made a member of that Commission. I had spent sixteen years of my life as an overseer of the poor; I had begun to understand what the problems of the poor really meant. I had spent sixteen years in and out of courts studying the lives of those who were there convicted, but I didn't begin to understand certain questions until I served on that Commission. We conducted an examination of three hundred girls, a physical and mental examination. We took one hundred girls out of our largest jail, one hundred out of the Tombs in the Boston Prisons, and one hundred out of Lancaster School for Girls. We had them examined by three of the best physicians in this whole country and what was the most striking bit of evidence? It was that 51 per cent. of

those girls were feeble-minded. Fifty-one per cent., over half, and we had wasted our time in trying to improve the condition of many of those girls on probation who were feeble-minded and not responsible for their acts. Somebody came forward with a bit of information. They said, these girls work for small wages and consequently they lead a life of vice. Of course, they work for small pay. They were the incompetents in the community and they were not responsible for the things for which the community was punishing them over and over again.

In Massachusetts last year, 176,000 persons were arrested. Who are they? I know our difficulty and our fault and let us confess it. We begin to look on them as belonging to a different class from ourselves; we don't get close enough to them to understand what makes them what they are. We classify them and we put them apart in the community. I heard a man once say — and he was a foolish man — “None of our family were of the criminal class; we were not a cost on the community.” But before the dawn of another day the knock came at his door and he was obliged to say that one very near and very dear to him was of the criminal class. Probation officers should never forget that they are dealing with men and women not essentially different from others who have never been charged with crime.

The other day my attention was called to the work performed by women in great foundries. I couldn't believe the report of our inspector, but it was a fact that a woman was working on a core weighing 175 pounds. I said to the foreman, “You ought to be ashamed to have any women working like that in this place.” “Oh,” he said, “they are all Poles and they are used to this sort of thing.” “Oh, but they are human beings and they are the future mothers of another generation of American citizens and you haven't the right, legal or moral, to allow it.”

We want to learn as probation officers that we are dealing with human problems. “The Future of Probation.” It depends upon you so far as the State of New York is concerned; you have the future of probation in your own hands; what shall the harvest be? That is for you to determine, I can only point the way.

Have you heard the history of probation, where it came from? Was it a good clergyman who thought of it? Was it a doctor of

divinity who thought of it? A judge of a court? Not at all. A good old philanthropist seated in the Boston Police Court, nearly forty years ago and witnessing the great procession of men and women and boys and girls going through the court, said, "I wonder if it isn't possible to pick one or two out of that crowd and save them." So he got up his courage and said to the judge, "I believe that man there has got some good in him; I would like to try him; give him to me." "There is no law for it," the judge said, "but you take him." The experiment was successful, and before long the name of Father Cook became a household word in the city of Boston. It was a good work; it was too good to die with the man, so, when Father Cook passed away, a law was made providing for the appointment of probation officers, and what a change has taken place.

In Massachusetts last year, 24,700 were placed on probation. That is a good many more than in the great State of New York. Last year, we collected, for restitution, \$26,276; from suspended sentence, \$56,745; for non-support, \$189,830, making a total collection of \$272,852, more than twice as much as was paid in salaries to probation officers and all the expense of the system, including the expenses of the Probation Commission. I wonder what it ought to teach us. Well, here's the thought that comes to me. Let me pause to say, that some wise men in Massachusetts were very fearful that we had turned in the wrong direction, that some awful calamity was about to befall the State, and they suggested that a commission be appointed to study the increase of crime. The commission was appointed consisting only of men connected with institutions and after a complete investigation they reported in print, stating, "There is no increase in crime and we would report very highly in favor of the extension of the probation system so that more men and women can be reformed in the commonwealth of Massachusetts, in the reformatory without walls." Now, then, if we take 25,000 individuals on probation in a single year in Massachusetts and no harm has come to anybody on that account, I wonder if we took 26,000 if it wouldn't be all right, and I wonder if we worked a little harder and studied our cases a little better if we couldn't squeeze out another thousand on top of that; that is the future of the probation system.

The other day I was over in Pennsylvania and I visited the Juvenile Court there. I was there only a little while when somebody said to the reporter, a young lady, that there was a man from Massachusetts in the court room interested in probation, and she would do well to interview me. She came over to me and said she would like to talk with me and get my ideas on court work. I said to her, "As the first idea, I want to say that if you were in Boston we would open that window and drop you out; reporters are not allowed in our Boston Juvenile Court." "Oh," she said, "but there are some fine stories here I tell you and we can use them." "Well," I said, "the public ought to deny themselves the privilege of reading them." As I was speaking two little girls, one about ten and the other about eight, were brought up by a great big officer — it has always seemed to me that the biggest officers work in some juvenile courts — he brought these two little girls to the bar and they were charged with vagrancy. The officer said he found them down on the corner of a street and they were begging from people who went by, so he took them in. "I would like to see the father of these little girls," the judge said. Someone replied that the father was dead. "Well, then, I will see the mother." Just then a woman, raised and helped by two other women, was brought up to the judge's bench; she was suffering from a cancer. The court said, "Are you the mother of these little girls?" The woman replied that she was. "Did you know that they were out on the street corner begging last night?" "Yes, your Honor, and I would send them again. Once I was happy and had a very happy home. A year ago my husband died and I had no friends; I tried to struggle on alone and last night when I saw my little babies wanting something to eat, I told my two daughters to ask those who had, to give to those who hadn't and, your Honor, I would do it again." My heart bled to think that in a great big organized community there wasn't some agency that would reach down and help that woman. In the court records of the State of Pennsylvania are two little girls' names charged with vagrancy who never ought to have seen the inside of the juvenile court.

Someone has said that in every one of our communities there is a great scrap heap of humanity, men and women who, partly

through their own fault and partly through your fault and mine, have made themselves useless in the eyes of certain people. The two most cruel little words that are ever spoken of a fellow human being are that he or she is "no good." The presumption of any human being to so brand his fellow man as being "no good" is astounding. The job of the probation officer is to go down to that scrap heap and pick them out and see if he cannot make good iron out of them. That is his job; to go down to the scrap heap every morning and see if there isn't something that can be done to put some of them on their feet. Every one that is put on his feet will prove a blessing untold to you and will be of great value to the community in which you work. That is what you are doing. Someone has said all wickedness is weakness. I agree with that sentiment. Follow it out. Don't blame the other fellow. He may have fallen where you would have stood; it is barely possible he might have stood where you would have fallen. There are certain temptations that are no temptations to you. There are other temptations which perhaps would overcome you.

We talk about the possibilities of probation. The possibilities of probation cannot be measured. This afternoon, you have been discussing here the question of investigation. Do you know what it would mean if in every city and town in these United States, we had one man or one woman who would go out into the community and properly investigate, not in a critical way, but so as to understand the real causes for conditions about which we complain? Do you know what a great big job he or she would be doing? That is what we ask you to do. We ask you to go still further. Notwithstanding probation has been flourishing in a great many places all over this country, it is little understood by the people yet. You could go into any community and talk with many fairly intelligent persons and if they really expressed themselves on the question of probation they would be apt to think that someone got drunk, went into the court and was let off through probation. We mustn't allow an enlightened public to have any such ideas of our work as that.

My other topic is, "The Limitations of Probation." Some people are very much afraid of that particular topic. Don't be

afraid. There is nothing human but that is certain to err. You will make a mistake occasionally and someone will go on probation who should not. Just charge it up on your account; don't worry over it.

I worked as a probation officer in Massachusetts in the Superior Court. The Superior Court handles nearly all felony cases. The Chief Justice was disturbed by the law that provided that probation officers should be appointed there and at first he wouldn't appoint me. He had no objection to me personally, but he said, "I cannot do it; I do not believe it is for the best that we should have that kind of work; these people are not the people to be treated with leniency, but with severity in order to accomplish the thing we are after." After I had served a year in that court a little pamphlet was written to justify the expenditures of the \$1,200 I received. What a change came over the Chief Justice! He came to me afterwards and he was man enough to say what a mistake he had made. He said, "Isn't it the grandest thing that we have someone at our elbow who will do the thing that ought to be done, investigate the case of the man or woman at the bar and find out what ought to be done for that prisoner because you can find it out better than I could possibly do."

At one time I submitted a problem to a committee of Superior Court judges. I told them this case. A boy was put on probation. He was called a "flat worker." There were two of them; one got caught. I took him on probation. He was the most cantankerous boy; he just wouldn't move when I wanted him to and I was on the point of surrendering him. The mother had to work hard and I thought he ought to help her, but I couldn't make him do it. But one day I discovered that boy had gone out on his own initiative and got a job where he was handling thousands of dollars of his employer's money. Well, now, I needn't tell you ladies and gentlemen the worry that sort of a case brings to one's mind. I was talking with the judges and said, "Ought I to surrender this boy or tell his employers of his record?" One judge scratched his head and very wisely said, "You ought to tell his employers, because if anything happens to that boy, if he doesn't do well, it will react on the probation system; they will say you are taking a lot of thieves and throwing them on the community." Another

judge scratched his head and said, "Well, I don't know about that; Mr. Mulready didn't recommend this fellow for this job and he is not responsible for it and why should he throw this boy out of employment?" Well, they haggled. When doctors disagree, we do as we please and I suppose when judges disagree we should do as we please, so I left the boy on probation. I don't believe there was a day for many months, but I didn't immediately glance on the front page of the newspaper, for I expected to find that boy's picture amid great big headlines, but it didn't go that way. That fellow to-day is a successful man of business in a city not far from Boston. The other day I met him and he invited me to meet his associates. "I want you to see the men associated with me; I want to have them see you and have you meet them." Wasn't it better than if I had thrown him on the street and made him a criminal for the rest of his life?

I had a very funny experience the other night. I was talking in a church and when I got through it was said I would answer questions. That is always a dangerous thing to do, but on this occasion I volunteered to answer questions, so the good pastor of the church stood up and said, "Now, Mr. Mulready, I want to ask you a question; I know it is of interest to several people here." I might say there before my visit a young fellow had gone through that part of the city of Boston and had riddled everybody who was foolish enough to put money in his possession. He was arrested and sent to our House of Correction for five years. "Now," he said, "Take the case of — we will call him David. Do you mean to say that you would recommend that fellow for probation?" "Well," I said, "My dear sir, we have a rule in probation work that we must first consider the rights of the community; would the rights of the community be injured by putting that young man on probation? Then we must consider whether his present disposition and his past history would justify us in forming an opinion that he would do well if he was on probation, and those two rules being observed, I do not know whether I would take this fellow on probation or not, but I would like to talk to him. Now, if I may add another word, if there were not so many men in this community looking for something for nothing, there wouldn't be

so many young Davids prepared to supply the demand." Don't you know I got into an awful scrape, for there were several men there who were the victims of this boy, so you see how dangerous it is to answer questions.

We are not starting a new religion; we are not trying to reform people against their will; we are just taking part in an effort on the part of the community to allow people to reform themselves while under supervision; we are out on a job to help them do it.

The other day I was over in Pennsylvania at the State Conference. Judge Fuller, of Wilkesbarre, was talking. He said, "I am a great believer in volunteer probation officers; I have two classes, one the Elks and the other the Sunday School people; I prefer the Elks; I am a high church Episcopalian myself, but I prefer the Elks; you give a member of the Elks Committee a boy to care for and he will take him out and buy him a suit of clothes; he will buy shoes for his feet and then get him a job. If you give him to the church people, they will take him to Sunday School." I prefer the Elks.

If I may I will conclude my talk by putting into your mind just one more thought. About half the world is dependent upon the other half; arrange it and shake the dice as often as you desire, there are certain people in every community who are a charge on other people. You and I of the probation service are dealing with that class. You can make the load that the community must carry lighter if you will. Will you do it? That is the whole proposition. You can perform your duties in such a perfunctory manner that really it were better that you were not there; you take the place of a better man or woman; or, you can put your heart into it and you will have that happy feeling that comes to everybody who tries to do their work well. We are our brothers' keepers in the truest and best sense of the word and every one of us should realize and appreciate that. I am going to conclude with the very same words which I quoted when I was here six years ago. They are the words of a woman who saw something in life besides the mere drizzle:

"How can we tell when souls are near to God
Or who is vile who righteous ways hath trod

Ah! He whom we may deem most vile and low
And destitute of good may not be so. We cannot know
The wrongs he may have borne
Or how his heart was crucified and torn before he fell

“ Had we perchance been driven through the hell
Of his temptation, lashed and scourged, Ah, well!
We had perhaps been viler e'en than he.
So let us show our brother charity.”

PRESIDENT FOLKS: Whatever it is that we in New York may have owed to Massachusetts before, we owe them a vastly greater debt after that message from Mr. Mulready to-night. We are all parts of something much bigger than ourselves. These movements have their way and development and we are but little parts of them. There is a certain feeling running through this year's conference of probation officers that I hadn't really expected to find. I am afraid of sentimentality. I am moved by sentiment, but I fear always an excess of it, and yet, after all we have tried to do, to get our work into an organized system and shape, we can feel coming back and searching through it the underlying sentiment that inspires it and without which it couldn't exist. We cannot get away from the fact that our work is founded upon love of fellow man and desire to do him some good and belief in his possibilities of improvement.

I am glad to know that Massachusetts has gone ahead of us in the use of probation. I am not worried about the future of probation in New York. There are hundreds and there are thousands of perfectly good men and women and boys and girls who yet need your help and I am as confident that they are going to get it as I am that I am standing here. But a still greater opportunity is before us as probation officers, even than that of saving these thousands of our fellow-men and women. If you are ever tempted to believe that there has got to be ground out every year in this State these tens of thousands of crimes and wrong-doings, let me tell you it isn't so. You and I are the people, and we are practically the only people, whose relation to this situation is such that it is our glorious opportunity to find out what are the real causes that are leading to this wrong-doing and tell them to the community to that they cannot escape seeing them and seeing that they are put right. I am as confident that it is possible to prevent

crime as I am that it is possible to prevent smallpox, and our great opportunity is that of lighting the way of the people of this State, to so reform their social life and their business and industrial life and their educational system and all their other affairs, so we shall no longer put our heels upon this vast number of those who are crushed down into the dirt from year to year. The salvation of the community as well as the salvation of the individual, that should be our goal.

SIXTH SESSION

Tuesday Morning, November 16, 1915

INFORMAL AND PREVENTIVE WORK; KEEPING CASES OUT OF COURT

MR. HARRY A. BARRETT, COUNTY PROBATION OFFICER, FRANKLIN COUNTY: Edmund Burke, in his reflections on the revolutions in France, says: "The science of constructing a commonwealth or renovating it or reforming it is like every other experimental science, not to be taught *a priori*, nor it is a short experience that can instruct us in that practical science, because the effects of moral causes are not always immediate, but that which in first instance is prejudicial may later be excellent and, as more often happens, very plausible schemes, very pleasing commencements have often shameful and lamentable conclusions."

This is as true of individual character as commonwealth. This job of rural probation work is not one which is completely solved with a card index and a probation blank on which to make reports. We are dealing with a great modern science, the science of the human mind, if you please, with psychology; that is the emphasis I wish to place in general upon this conference this morning; the phraseology to me is very significant; the terminology is completely changed. We used to work from the inside outward, measure a man's mind, if possible, and then prognosticate how he would act, but to-day I am particularly struck with the modern work on psychology which has the title, "Human Behavior." We discover how the man or boy in a certain environment acts and we get at something of the workings of his mind. By this pragmatic or practical method, we discover how human beings behave. This to me defines very much that lies at the bottom of these sub-topics, "The treatment of complainants and those seeking advice and help." "Shall the officer seek to keep cases out of court? If so, when?" "The supervision of unofficial probation cases, i. e., cases assumed without court action." I think at the bottom of all those

can be placed this modern science and the man who does not know how human beings are going to behave in certain environments, who cannot readily analyze the psychology in the mass in front of him, is certainly going to take some cases into court which should never be brought there and keep some out possibly which should be brought in. I think that sex cases should be kept out of court as much as possible and if not possible great care should be exercised in examining certain types of minds, especially those of children. A recent book which I would not want to put in the hands of all youngsters, "The Sexual Life of the Child," brings out this point very clearly and distinctly and refers to the justices and to the courts as depending too much upon the evidence of children and taking too much for granted.

Now, in the rural sections we have more of this type of criminality than you have in the cities. The large percentage of our cases are not those of robbing peanut stands and pranks of that nature, which are simply the result of a boy's desire to play, but are of a far different type entirely. The average court room is not the ideal place to teach eugenics; it is a good place to hold a clinic and to show mistakes, but it is not the place to teach the methods.

We had a murder trial, the first in many years, in one of the counties of this State along the northern border and there was a young girl whose testimony would have proved the motive of intent had the lawyer wished to use her evidence. On further investigation it was discovered that she manufactured the whole thing from her imaginative mind; based upon the moving picture show and some of the marvelous exploits she had seen perpetrated on the screen. She was not used because it was discovered she was not the proper one to bring into court and the man was not sent to the chair on her evidence; it was not a first degree charge, and the case terminated far differently than had she been used in evidence.

The problem of complaints and properly dealing with complainants, will be solved by a thorough knowledge of how folks behave under certain conditions.

The last sub-topic, "The probation officer's relation to organizations doing preventive and constructive social work," brings up

the great problem for the rural community. In the county in which I am privileged to labor, several thousand square miles in area, it is quite necessary to have some volunteer workers. It is very difficult to get the right kind. It requires quite a bit of work to induce people to get into touch with those who come into contact with the law, with those who need restoration. In a recent investigation and visit to a good-sized village I called upon one very estimable worker in a social way and tried to get her to go down to a family and wash up three little youngsters and I received the response, "We never go into the homes of these people; we furnish them coal and give them the things necessary for maintenance and keep them going through the winter, but none of my women in this society"—and by the way it was called a Helping Hand Society—"ever go into the homes of these people." I couldn't find one person to take care of these children. On the other hand, by some labor, last year I saw the most refined and cultured women washing the feet of and putting shoes and stockings on one hundred and fifty children in a socialized, if you please, organization. It is possible, but sometimes very difficult, and I think the solution and the work of the probation officer, particularly in the country is to get the organizations working together, taking the illustration from the Great Teacher of men who came down from the mountain top and found a man on the ground and reached over and lifted him up and he arose; namely, the personal touch; human interest. That is the real work of the probation officer, I find, in going about through the country. My job is no roll-top-desk comfortable-backed-chair sort of job, nor is that of any probation officer in the country. It is where there is a lad who needs help; where there is a family which needs restitution and restoration.

MR. THOMAS J. KEATING, PROBATION OFFICER, ALBANY POLICE COURT: The informal and preventive work in the Capitol District here is handled mostly by the Society for the Prevention of Cruelty to Children. This society has three probation officers regularly appointed in the Police Court of Albany; in addition, there is a paid woman probation officer. We find in order to handle our work successfully we must have men who are especially

trained and equipped in this line. The knowledge gained by the Humane Society's officers in their work particularly equips them for informal and preventive work, and it has always been the policy of our society to keep cases out of court whenever possible, but we cannot expect to be successful in this line if we try to work alone. We find we must bring in all the different agencies, the churches, child-helping agencies and our schools, and, when we come to probation we do not find any special reason for keeping certain cases out of our local Juvenile Court, particularly when we have a man of the temperament and character of the present presiding judge, Judge Brady. He has been of great assistance to us in our work, and our work is double, as you probably know, working along the lines first of informal and preventive work and then receiving the cases on probation.

MR. JAMES E. McNAMARA, PROBATION OFFICER, NEW YORK COUNTY CHILDREN'S COURT: Many cases of children could be kept out of court if the parents could be made to realize the duties devolving upon them, as well as the stigma which is placed upon the child when it appears before the justice under circumstances that are frequently revolting to its sensibilities.

Many cases of children could be kept out of court if the parents could be made to realize the duties devolving upon them, as well as the stigma which is placed upon the child when it appears before the justice under circumstances that are frequently revolting to its sensibilities.

Many such children are the offspring of parents born in foreign lands, where oppression was one of the saddest conditions of their lives and where the educational facilities were not extended to them for various reasons.

Frequently we find parents born within our borders who believe it necessary to appeal to the law in order that their children, apparently beyond their control, may be redeemed and made more submissive to parental authority. Such parents have a false idea and instead of assuming responsibilities naturally belonging to them, they shift their children to the care of the State regardless of the ultimate consequences to the little ones.

There is also to be considered the child who has been deprived of its father and whose mother is compelled to be absent from home

at hours when the danger to that child's welfare is most ominous; or, on the other hand, the child may have been left motherless, and the father, who is earning a meager living, compels the child to violate the law — not at all times intentionally — that its small earnings might add to the household income.

Then again we have the boy or girl who has not been sufficiently advanced at school, commensurate with the years attained. Such as they feel that they are often too large in the class with the other boys or girls, and long to seek employment. They absent themselves from school or obtain positions through misrepresentation, and are eventually arrested for a violation of the Compulsory Education Law.

Whatever course is pursued to prevent such cases from getting into court, it will be found that the function is a very delicate one, and considerable discretion and tact must be used in dealing with the folks, as well as with the child, and above all the utmost confidence must be maintained in order to uphold the sacredness of the home.

The pastor of the church can be appealed to in many cases before a child is brought to court; wherever there is a society such as the St. Vincent de Paul Society, whose members seek out the poverty-stricken or the unfortunate cases discovered by them could be reported and a representative of the appropriate society could be assigned to the case to prevent its coming within the scope of the law.

There is also the Protestant Big Brother and the Jewish Big Brother Societies, whose object is to lend a helping hand to the downtrodden and the unfortunate, and their work to relieve the distressed brings them in very close relationship with each member of the family. Any appeal made to them will meet with prompt response, and the humiliation of the parent complaining in court about a child can frequently be offset by the good offices of one of the members of such an organization before a critical point has been reached, and the child can be restored to the bosom of the family, regretting its obstinacy or waywardness and with a firm desire to make amends.

When a child imposes upon its illiterate parents, and perceives that it can escape a just flogging for its disobedience or incorrigi-

bility by threatening to "tell the Gerry Society," the parents would find that the advice of a member of the Catholic Protective Society, the St. Vincent de Paul Society or a Big Brother could work wonders in the home where Pasquale or Willie or Joseph formerly held sway, and that there would be no need to bring the youngster outside the precincts of his own home. The co-operation of the various charitable organizations will also be serviceable in preventing cases from reaching court, and many times the Probation Officer can be so well informed of needy cases that he can bring the matter before the proper persons engaged in work of this kind.

When a boy or girl is eligible for an employment certificate it would be well if the document was retained at the office of the Board of Health and the child given a voucher that he is by law permitted to be employed, and upon presentation to an employer of voucher and promise of employment the necessary document would be forwarded to the prospective employer and the same returned to the proper authorities upon the child leaving his employ. During the child's idleness he should then be obliged to return to school until he secured another place. In this manner the boy would be off the streets and in a great measure out of danger of getting into trouble.

Truancy cases could be prevented in a great measure from reaching court if the policemen were kept informed by the school authorities of truants living on their respective posts. They could make visits at regular intervals to the home of the truant and when found have him assigned to a school where such boys could be closely watched and not brought before the court except in extreme cases.

Such police supervision over the movements of truants would go far to prevent truancy, would reduce the number of truants to a minimum and eventually prevent juvenile delinquency to a great extent and keep thousands of cases out of the court.

MR. CHARLES H. WARNER, SUPERINTENDENT, WESTCHESTER COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN: There are two propositions that have staggered me ever since I began, about eighteen years ago, to climb tenement house

stairs in Brooklyn and in New York and Yonkers. One of the things I cannot understand is why little helpless children are obliged to suffer because of the faults of older persons, and the second thing is — and we have all got to admit it gives us a great deal of our trouble to-day — why do we have this tremendous industrial inequality. In our conferences I think we spend too much time in dealing with results. Our work is all the time with results, with the effects,—juvenile delinquency, petty larceny, truancy, no proper guardianship, thousands and thousands of cases; there is no discussion of causes. I think in these conferences we should call a spade a spade, and when we go home we should do the same.

Prevention is of two kinds, it seems to me; one kind takes care of itself and produces a deterrent effect as the result of our work. We make our investigations and find that there are conditions which require an arrest; we take the poor father or mother out intoxicated, take the children to the shelter and bring the case to court. Much to our disgust it is spread upon the pages of the newspaper the following day. Now, there is a deterrent effect in the immediate community where you make the arrest and there is a certain deterrent effect which comes from the publication of this story of these unfortunate people. That deterrent effect will take care of itself, but there is another prevention which we should address ourselves to more and that is constructive prevention. There is no trouble about finding cases, but the great trouble is that we find these conditions too late. It is only recently that a man is taken from his home when he is in the incipient stages of tuberculosis. Formerly they waited until he was nearly dead and then took him to the mountains and gave him a nice place to die. It wasn't until recently that the charity workers would go to the home and give some relief before the family was ready to be placed upon the street or the children sent to institutions. Now we find that the thing to do is to go there earlier and reconstruct the home by giving the relief before the crash comes.

We must have two things in order to do this preventive work. First, we must have some intelligent idea of the conditions with which we are dealing, and the only way to get it is to go and see those conditions. You really don't know what is going on until

you go right into the home and see it. Secondly, when you see these conditions and see how deplorable they are, if God has given it to you, use your common sense.

As an individual, as a citizen, I think it is the duty of the probation officers to do all they can to keep cases out of court. But the probation officers all know very well that it is a dangerous thing to be dealing too much as a probation officer with cases out of court, to try to keep them out of court. There are a great many people coming to you for advice; there are a great many mothers who come to you because a neighbor's mother has been to you about her son. This is good, but do not dabble too much with cases out of court when, as a matter of fact, you know they ought to be going to court.

Now, as I say, we come to the conditions after they become wrong. There are three great safeguards to-day for the welfare of children, and this statement is as old as civilization itself. They are the home, the church and the school. I want to address myself to just one of these, and that is the home. I cannot understand why it is that with all our churches and their visitors, ministers, priests and sisters, the schools and the opportunity of having examining nurses and doctors, we go to these homes and find such terrible conditions. How can it become that way in a civilized community? You who go among the homes know what we find. Such filth, such neglect, such poverty, such suffering of little children and babies, that you cannot understand how those conditions could ever get as bad as they are. Something is wrong. I want to tell you that the trouble to-day is purely and simply that the home is breaking down, that the functions of the home are breaking down. Now, when that is true, there is bound to be this trouble.

We are dealing all the time with effects. I think we should be studying more about the cause of these effects; what it is that makes the home in the condition we find it to-day. The first reason is the economic reason, the industrial reason. You go to a home to-day and you find the father and mother living with five, six and seven children in three or four small rooms. Aren't you dumbfounded when you go around to those homes, and ask what the wages are? Do you think any one of you could support a family

on what that man receives? That very condition of the low wage compels the mother to go out to work, thus taking away from the home her natural functions. The father and mother are obliged to lock the house and both go to work in order to make enough money to keep food and clothes for the children. Isn't juvenile delinquency the most natural product of that condition? We talk about studying cases, but why don't we go back and study the cause of these things, and if we know what is the cause why don't we say something?

We hear to-day what makes these low wages. If you go back to your own town you will find out why. I know why it is where I live. You go to our manufacturing cities and among the foreign population you find boarders; the rooms that should be used for children, where there should be privacy, where little girls should not be subjected to the conditions they see, what do you find? The bedroom they should have, what do you find? Three, four, five beds right around the room as thick as you can put them. For what? So the family can live. I cannot get out of my mind a statement I heard in regard to this low wage situation, and it is this, that any employer who knowingly gives his employee a wage less than he knows he ought to have to live on accepts charity from a man who can ill afford to give it. That is turning it around the other way. There, instead of having the charity come in one way, it comes the other way.

We think that drink causes a great deal of this trouble. It does, but I believe the best way to fight drink is to give the man a better wage so he can go home and do the things that his family needs. I do not believe that many men drink and neglect their homes because they want to. I believe a great deal of that is done because the men are so absolutely discouraged from the conditions in which they find themselves that they go and drink to try and forget it. I believe the best way to fight drink is to see that these men get better wages, and then you can insist that they have a better place to live, better clothes and food for their children, and that will relieve a good deal of truancy and juvenile delinquency. The women and men with the large families are mostly ordinary day laborers, and the father and mother are often obliged to lock the house and turn the children out on the street, and the first thing

they know about truancy is when the truant officer comes around and says, "Why isn't Johnnie going to school?"

One other thing that is breaking down the home is the fact that among our foreign population to-day, where the father and mother come over with children, the children are really the masters of the situation. The fathers and mothers have to go to work; they don't understand our language; they don't understand our customs, but the children go out and find their own education; find their own schools. In many instances I think you will find the fathers do not know the location of the school where the children go. They find their own amusements, and the first thing the parents know the children are in trouble. The probation officers, and those of us who investigate these conditions, are the ones to interpret them to these fathers and mothers and to tell them about the trouble.

About the school. Why is there so much truancy? I think one of the greatest reasons for truancy to-day — and this may be heretical — is because of the methods of education in our public schools. When a boy first goes to school he is simply full of expectancy; he has heard about school and wants to go, but when he goes there he doesn't find at all what he thought he was going to find and he cannot wait for recess or for school to close. He is like a rubber ball; he wants to be put up and out. Why should that be? We have a peculiar class of children, some are feeble-minded, some emaciated, some have to get up and go to work on milk wagons, and then they go to school and nearly fall asleep in their classes, and they are all expected to keep the same pace in the school. The teacher's reputation depends upon the number that can be promoted. It has changed to-day. We have doctors in our schools examining them and finding those who are feeble-minded; they are finding out those boys that would never be able to study out of books and are putting them in manual training schools; those are the hopeful conditions, and I think that the more that is done, the more truancy will cease.

What can we do with reference to the church? I don't think the clergy to-day appreciate the conditions at all; they do not appreciate the conditions in the homes; and if they did they would be one of the greatest powers of the world. The church is an insti-

tution which the foreigners know all about on the other side, and they don't find a strange institution when they come over here.

It seems to me our business is to interpret these conditions as we find them to those three great forces, the home, the school and the church; and if those three great agencies were to do intelligently what they have the resources to do, you and I would have to be seeking some different employment.

MR. JAMES A. BOYD, PROBATION OFFICER, NEW YORK CITY CHILDREN'S COURT: I wish to take up the first sub-topic, "The treatment of complainants and those seeking advice and help." I would suggest that the complainants be treated with courtesy, that they be made to feel when they come to court that it is a place where they will receive justice and fair treatment, and that we are willing and ready to help them; but I think it is a good plan also to suggest to the complainant, in at least some cases, that they sign an affidavit, because frequently there is a complaint made against a boy, and as soon as his name appears upon the court record the complainant doesn't want to go on with the trial or press the case; so I think the best treatment of complainants is to suggest to them the seriousness of signing an affidavit accusing a boy or girl of some offense which, after all, may amount to very little.

MISS GERTRUDE GRASSE, EXECUTIVE SECRETARY, BROOKLYN JUVENILE PROBATION ASSOCIATION: We have heard from the probation officers' point of view where an organization can be of help if the organization exists. I know in the rural communities perhaps you cannot get such co-operation as in the larger cities, but it seems to me there are many ways in the larger cities where the co-operation of a volunteer organization can be useful. If I seem egotistical in mentioning the Juvenile Probation Association it is only because I speak from that standpoint.

One of the things which comes to my mind is that the probation officers very seldom have any reserve fund for accomplishing things which are needed and which have to be done. We always feel that if any special case comes up, sometimes it is only a pair of shoes, we are always ready and I can always get the money to see that particular case improved; I think there are many organizations,

even if they do not have any special connection to the Children's Court, who would do the same thing. The charity organizations are sometimes a little slow in responding, although they do respond, and an organization which is perhaps more closely connected with the Children's Court, or perhaps a group of people who could come together and stand behind the probation officer in expenditure or in any special case where there is need, is of great value.

We find that there are many cases where there is some special thing to be done. I do not want to underrate the ability or the influence of the probation officer, but it stands to reason that an organization with a well selected board of trustees known to be interested in the children can sometimes see a matter through — I am speaking of individual children, not of the larger question — where the individual probation officer perhaps could not do so. That again would hold true in any group of people. It doesn't have to be an organization — any group of people who would stand together and are interested in just the one thing would do. I have sometimes been asked, "Exactly what does your organization do in the Children's Court?" and I frequently say we do all the odd jobs or things which nobody else wants to do, and it seems to me sometimes that is what it amounts to.

One of the points, and I should think that would be a very great difficulty in rural communities and one in which an organization can be very useful, is that of employment. The question has been brought up in this conference from time to time, and we have organized an employment agency which is almost only for the court and for no other boys — we do once in a while have a friend of one of the boys come — but the agency is practically for the boys of the court and it is unusual in this way, that we do not say we have an employment agency, but we started it with the idea that we would educate the employers to the point where they would be willing to take our boys of promising material and give them the employment which they needed. Out of one hundred employers approached, ninety-four have co-operated. We have approached the foremen as well as the employers. This is because the foremen are the ones who look after the boys. We ask them for individual attention toward the boys; they try to give it to as great an extent as they can, and, as I said before, it is an employment agency for

the court, and there are very few boys who have not had some connection with the courts or institutions. If there is any organization existing, or if there are any good people who are willing to help, it seems to me that it can only work to the best for the child if the probation officer and the organization work together.

MR. WILLIAM A. KILLIP, CHIEF PROBATION OFFICER, MONROE COUNTY CHILDREN'S COURT: I believe in keeping cases out of court as much as possible, especially if we find the home conditions are good and the parents of the children are willing to co-operate. We find many times when the complainants come to our office they are very angry about some mishap, so we talk with them and explain what it means to the child to come to court. There is many a boy coming to court for the first time; if you bring him needlessly he becomes accustomed and he gets so he doesn't care if he comes back again. We do go out as probation officers and investigate the case; we visit the complainant; we visit the parents of the boy and speak to them and explain the seriousness of having the child come to court, and we try to adjust matters so that the complainants go away perfectly satisfied.

MR. MALLON: I was going to say one word to bridge over the chasm between the probation officer in the large cities and in the rural sections. It is like the difference between the specialist in the large section and the general practitioner in the rural district. Every one knows the probation officer in the rural districts and his word carries weight because he wouldn't occupy the position he does unless he stood out. The probation officer in the city is like a kernel of wheat that has no individuality at all. He is simply in the position of the ambulance surgeon who picks up the man in the street, and this talk of probation officers in New York city and Brooklyn doing constructive work is impractical, for we know we haven't the time for it; we haven't the standing for it. It is a good work, but we cannot do it. The only thing we can do is to interest the well disposed of the community, the people who have means and leisure and who are willing to take this up. It is our business to bring our work to them and say, "Here, I found this boy in the Children's Court; I can only leave him here." In

the rural districts the probation officers, like the general practitioners, can treat everything from a case of diphtheria to a case of broken leg, whereas in the cities they are specialists who can do only a certain amount of work. Don't let's attempt to do the work that these other men or women who are equipped for it should do. We are not preachers, teachers or physicians; we are merely messengers. That is all. We get those cases in the Children's Court and bring them where they belong, and if we do that it will be better for all concerned. It will emphasize the responsibility upon those who have the responsibility. Refer them to where they belong. I say that is our problem in the cities, but of course in the rural districts it is entirely different, and the probation officer can be a general practitioner and he can extend his influence to perhaps a wider area and continue his work longer. We in the city cannot do it. There are plenty of agencies in New York and Brooklyn, clergy, teachers and others, and let's bring it to them and say, "Take up your burden and carry it."

THE VALUE OF CONSOLIDATION IN PROBATION WORK

MR. GARRITY: Before entering into the general discussion on this subject it might be well for us to remember the fundamental reason for calling this conference. We hear some of the probation officers say, "What benefit do I derive from coming here; has there been anything new suggested or inaugurated; has any one told something that will be of real value to us in our own particular field of endeavor?" And I answer that by saying, "Yes, a great many suggestions have been brought out by various workers in the field that could be utilized in other fields where they are not now in practice." But outside of that fact the very essence of the conference is to "get together." There ought to be a closer co-operation between all probation officers, regardless of whether we suggest anything new or whether we bring out any new ideas for the benefit of each other or for the benefit of the entire system. As I stated a year ago, the probation officers ought to be closely allied. Why? Because, as the Governor stated in his address last evening, probation to-day is practically in its infancy, and by no stretch of our imagination can we look forward far enough to see the ultimate result of what this probation system will be ten years from to-day. The evolution of science in every direction has been so rapid that when we look back five years at some of the phases of life of to-day, we say to ourselves, "Isn't it funny that we didn't think of that five years ago, and we are amazed to think how slow the human mind has been in grasping present day problems, and so it is with our work." Some of us are egotistical enough to believe we are doing a real good, substantial work to-day. Isn't it only reasonable to suppose that ten years from to-day you and I will look back at 1915 and say, "Really, we didn't know what probation was in 1915?" The close co-operation and the alliance of probation officers is an absolute necessity from the point of view of watching the development in the entire country and from the point of view of safeguarding and bringing the position of probation officer to a higher standard.

I said a year ago that it was a shame that people who were willing to devote their energy and their lives toward a special line of endeavor did not receive the pay of the common ordinary artisan; that they are not recognized in their own community as being of any special worth; that the man working on the scaffold on a building receives more per diem than most of the probation officers in this State. Let us look at this thing squarely between the eyes. It is not the fault of our Probation Commission, which has done wonders in the last few years to advance our cause and your cause; not the fault of the probation officers as a collective body or as individuals. The fault of the system is in its start. That must be corrected, and it can only be done by united effort on the part of all probation officers in the entire United States.

If we wish some day to have the people realize that we are not thousand-dollar-a-year men and women, that we are not \$18 a week employees, if we wish to convince the public of that fact, we must educate the public to the real worth of the probation system.

The day is passed when the haphazard manner of picking probation officers was in vogue. To-day they are selecting them for their peculiar qualifications; they are delving into their personalities, their patience, their habits, their general appearance. I think we have got to get together, if necessary, in an organization such as the National Probation Association of the United States, and, if necessary, we have got to pay some adequate person to read our propaganda to the world.

MR. LAWRENCE VEILLER, SECRETARY, CRIMINAL COURTS COMMITTEE OF NEW YORK CITY: I understand that the subject we are discussing this morning is the broad subject of "Co-operation." In other words, how the work of the probation officer may be made more effective through co-operation; and what the leader has said in regard to increasing the salaries of probation officers has a direct bearing on that subject. As to the method he suggests in advancing it is true that it pays to advertise, there are many ways of advertising, and I rather think that the probation officers of the State will in the long run find their positions farther advanced through very high grade work, impressing the most representative citizens in their community with the value of their services, than by rais-

ing what might be termed a lobby fund and importing an accelerator to try and influence boards of supervisors and boards of estimate. That method does not commend itself to the great mass of American people, and, with the exception of the teachers in New York city, I know of few groups of public servants who have advanced their cause by that method.

I didn't come to discuss that, but I want to point out that co-operation will advance your salary quicker than anything else, if that is what you have in mind, and I know the majority haven't that in mind, except as an incident to your work. You have a vocation; this is your career. Few of you have another. You have to live; you have to support yourself and you find that the salary that is offered in this position is a living wage for you or you wouldn't be in it. The salary wouldn't have been placed at what it is if they couldn't get plenty of women and men to take those positions, but your primary purpose is that the work appeals to you; it has a distinct call for you. If not, you are not good probation officers. The man or woman who is in the job solely for what there is in it cannot be a good probation officer.

To go back to co-operation. The mere fact that it is put on the program to discuss shows that we are in the rudimentary stages of probation work. Any one who has any possible conception of probation, as it really is, couldn't question the necessity of co-operation, not merely through efforts between fellow probation officers, but at every stage of the case.

I suppose the reason we have to discuss the necessity of co-operation is due to the fact that probation as yet has not advanced very far beyond the process of investigation. In other words, our staffs generally are so under-manned and the duties thrust upon them are so great and the desire of the courts to use probation has come with such a rush that the average probation officer has to do his work in a somewhat perfunctory way in which he wouldn't care to do it if the office had the necessary equipment.

How best can the probation officer co-operate? First, with the community. What is your problem? What are you trying to do? "To save some individual." I don't agree with you. You are dealing with some family nine times out of ten, not with some individual, so it is a family problem and not an individual propo-

sition. If it is a family problem, you have got to co-operate with all the forces bearing upon that family life. You must avail yourselves of all the knowledge concerning that family. In the larger cities we are beginning to have a very excellent piece of mechanism that will save us a great deal of work. I refer to the Social Service Exchange which exists in so many cities. You all know what that does — a place like a telephone exchange where they connect you just as central does with the very agency in that community working on that particular family. Now, how does it operate? You are a probation officer and there has been assigned to you one Mary Ryan, 20 years of age, living at such and such address. The first and important thing for that probation officer to do is to call up the Social Service Exchange and say, "Mary Ryan, 20 Main street, parents so and so," and find out from them not whether she is good or bad, worthy or unworthy, but what other agencies there are working with Mary Ryan to-day, and, if necessary, you can get in touch with those agencies. It pays to telephone and not to travel. It saves you traveling all around town, and you get a new flow of light upon your problem by going and talking with the pastor of the church, or the head of the charitable society, or the head worker of the settlement and finding out all that they have learned and benefiting by their experience. That is the main and most important form of co-operation that the probation officer can utilize, and we are not utilizing it at all to any extent. Out West they are doing that, but I think the time has come when we certainly ought to utilize the information that is available. Of course, that is a reciprocal relation. Co-operation means working with other people. That means you must therefore give to that Social Service Exchange the main fact you have about Mary Ryan, so when some one else comes along and wants to know about her they can learn that a probation officer has worked with Mary Ryan and they can get in touch with him so as to find out what he knows about the case.

There are other phases of this co-operation. There is co-operation among fellow probation officers. I do not think any probation system has instituted frequent enough conferences among its own staff and conferences with fellow workers in other groups, not on individual cases, but on the general problems. We have yet to

discover the group of probation officers in any city that has taken the initiative of calling ministers, etc., into conferences. The probation officer sometimes comes to those conferences, but I cannot recall a single instance where the probation officers have originated the conferences and have summoned to their call the social workers and clergymen and other forces working for uplift in their community. That needs to be done. You have got to take a greater leadership.

As to co-operation among yourselves. Of course, I know and you all know that the average probation officer is so overworked, has such a tremendous volume of work, that he hasn't time to stand off and look at his own job, to say nothing of standing off and looking at others. Organize your own work, lay it out and say to your chief if you are overloaded, "I am carrying more work than I can do properly," and let him unload some of your burden; then sit down and plan your own day's work. I don't mean geographically; of course, you route your trips; then look at this job and see what sort of results you are getting; check it up; how can you benefit your own work and your associates and those in positions of greater responsibilities, who are supposed to be forming the whole probation work of the State?

Lastly, there is the co-operation with the citizens. Generally with the newspapers, because it pays to advertise. The best way for the probation officer to advertise is to see that the newspapers are informed as to what the work of a probation officer really is, and the best way to inform the newspapers is to cultivate the acquaintance of the newspaper man and from time to time take some reporter around with you in your work, first asking him, of course, not to give real names and addresses — and every newspaper will observe that request — and let him write up a real live story. You will find if you get that kind of publicity and the public begin to realize what you are doing, their whole conception of the adequacy of your compensation will change and increase. Individually, I speak for a group of citizens who intermeddle in social and civic affairs. We recognized early in the game that the way to improve the probation work of New York city was to attract high grade men and women to the work as probation officers, and that the way to attract high grade men and women was to pay

them adequate compensation. We started out on a movement to increase the salaries from \$1200 to \$1500, and we have the full, hearty co-operation of the probation officers. I cannot say a single probation officer has held back.

MR. MORRIS MARCUS, PROBATION OFFICER, NEW YORK CITY CHILDREN'S COURT: If we were to do our work and mind our own particular business, so to speak, not only is there a danger of running into a rut of great misunderstanding, of bringing about friction, but the probation system itself, of which we are an essential factor, would not progress; it wouldn't enthuse; it wouldn't enlighten nor gain the wide co-operation of those agencies which are really our medium for publicity, the bodies which keep the public informed of our work; and so we can find every morning and almost every afternoon and evening in the Children's Court of Manhattan probation officers conferring with us, telling each other of special cases, of the methods of procuring co-operation in a certain locality, how to deal with a particular principal of a school, what the judge has done in a certain case or what he has asked in a particular case, all of which gives information and helps us to revise our own faulty methods and avoid differences with principals. Since the new Children's Court has been organized we have developed an organization under the leadership of our chief probation officer, Mr. Fagan, which provides for all the probation officers in the five boroughs of New York city an opportunity to get together to confer and thereby bring about uniformity and greater efficiency.

Now, as to the third subdivision, "Consulting with the Judge." It is not only advisable but it is a very easy matter for some probation officers to consult with the judge on almost every problem, but in New York city it is an impossibility. There are five judges in the Children's Court who sit almost all day and sometimes in the evening. There are many probation officers and you see it is an impossibility to consult with the judge except in rare cases. For example, I will try to illustrate where I consulted with the judge. A boy was charged with attempted rape, and it appeared that the parents of the injured child needed more probationary treatment than the boy, the defendant. The mother of this child tried to create a lot of trouble by exaggerating the offense, writing letters,

getting the sympathy of the neighborhood, and thereby tried to bring about criticism of the justice of our courts. Letters were actually written to the Mayor,—the judge had received two or three of them and he referred them to me,—simply because, as she put it, “the judge allowed the boy his freedom; nothing was done to him.” Probation meant to her that “nothing was done to him.” After careful investigation, as I said before, I found that she needed probationary treatment. I found that it was a question of how much she could get out of the boy’s father, and the judge agreed with me that the best thing to do with a woman like that was to ignore her. In such a case we consult the judge. There were letters written to the public and to the Mayor, and of course I wasn’t going to do anything without the judge’s advice.

As a sort of summary I will simply repeat some of the things I have mentioned. By means of conferences we can get a better understanding; we learn what others are doing. By comparison, we see whether we are doing as well or are falling into a rut; we hear new thoughts; learn new rules, new methods which otherwise would escape us, and, finally, agreeing upon those suggestions and plans which go to develop and strengthen the probation system, we submit them to the proper agencies which have already done so much and will undoubtedly continue to do much toward keeping the public informed of our efforts and providing us with facilities without which we are handicapped. While we are not fully equipped and while proper institutions for feeble-minded and backward children are needed, and while adequate salaries are not yet paid, the State Probation Commission, the Criminal Courts Committee and many of our judges have worked zealously in our behalf and have proven themselves to be not only an inspiration to us, but our real champions, and let us hope they will continue in their good endeavors.

MISS MARION SHOVE, PROBATION OFFICER FOR CHILDREN, SYRACUSE COURT OF SPECIAL SESSIONS: It is easy for us up-State to consult with the judge and with most people, and it is easier for me, as my father is the judge; there is probably not one case that comes up that I do not discuss with the judge, and I cannot see how any probation system can be carried on at all well without

consultation with him. You are apt to become discouraged and you think you are not doing all you can, but the judge can show you that, as long as you are showing this boy that he can lead a more decent life and that there are other ways of making a living besides stealing, you are accomplishing what you should.

Then, in consulting with teachers I find in Syracuse that there are some who are not in favor of probation, and the minute they know the boy is on probation they think he is absolutely incorrigible and there is no use in having him in the school; they want to get him out as soon as they can and they make the poor child's life miserable. I had one especially striking example of this. A boy was arrested for a minor offense and I called up his teacher, who said he was all right. Afterwards I had to go to see her, and two days later she said, "Johnnie is terrible; I cannot do anything with him at all; he is perfectly incorrigible," and for two weeks she called up every day to complain. She said, "He doesn't do anything but make the children laugh," so I had the child transferred to another school; she didn't like this very well, so before the child had a chance to go to the other school she called up the other teacher and told how bad the boy was.

I don't always tell the teacher when the child is on probation, but there are many teachers in Syracuse who give me the greatest help in the work.

We also have in Syracuse a confidential exchange, and I find it of great help. There are some others of these social workers who have been working with the families for years and they can give the keynote of the situation which perhaps you would not otherwise be able to find out.

MR. E. HALDEMAN FINNIE, PROBATION OFFICER, STEUBEN COUNTY: As to the question of consulting the social records, I find that particularly valuable because I am new in this sort of work. Of course, we all realize when we are dealing with an individual on probation that we are not merely dealing with the individual but with a much larger problem; that the particular fault which has brought that person into court is merely a symptom of some larger trouble, perhaps a family condition or community condition. When we find that there is physical trouble at the bottom of a child's misbehavior or mental trouble, we go to the

specialists and have the matter corrected; if there is something wrong with his education, we appeal to the school teacher, and so it seems to me that when it comes to the larger question of family and social conditions, we should go to a specialist for that sort of thing, the social worker, if we have one convenient.

I would like to mention one particular case which shows the value of assistance. A man 24 years old was placed on probation; I didn't know anything about it at all until he came down and reported to me, and after looking up his record and making my preliminary investigation, after he was on probation, I found he had spent two terms in the penitentiary for stealing, and this time he had stolen \$295 from a man on a lonely road one night; the penitentiary having failed to cure him of his kleptomaniac habits, they thought they would try something new. The boy wasn't quite normal and in addition he had a weak-minded wife. They were living with his mother and stepfather, and other factors to be considered were the wife's parents, so that there was a general five-sided family row going on all the time. Just about the time I got the boy straightened out his wife began to go on a rampage, threatened to leave home, beat him over the head and all that sort of thing, and I felt utterly helpless when it came to handling a woman of that kind, so I sent a hurry call for the secretary of the Social Service Society; she got this woman pretty well straightened out so she was behaving, and as soon as that was finished her parents began to cause trouble and wanted to have a warrant sworn out for this probationer of mine. I again appealed to the secretary of the Social Service and then the mother and stepfather started at it. It was just like trying to tie up a large bulky package when you haven't enough string and it bulges out in one place and then somewhere else. It has been a continual performance with that, and as it wasn't in my line, I absolutely depended on the efforts of the trained social worker to help cure that family condition. As long as that thing was going on there was no chance for the boy to settle down and behave himself.

In regard to consultation, I am particularly interested in publicity and advertising. I think in addition to working up in the newspapers we can do an awful lot with just personal face to face talks with people, particularly in the kind of work I am doing —

rural work. I really think I have more of a job educating justices of the peace than I have in keeping probationers straight and every time I go through a village or small town I talk with the postmasters and justices and always take that opportunity of explaining as thoroughly as I can what probation is.

One other thing is to educate these people into how to handle small boys in their pranks. I had a hurry call a week ago; three boys were going to be sent to Industry because on Hallowe'en they had taken the hose cart and had run it down the street and back again. I protested, and the justice of the peace said, "These fellows have all been before me before." I asked what their former criminal records were and found that one of the boys, 9 years old, had been arrested about two years ago for having gone in swimming without a bathing suit.

MR. GARRITY: I am going to occupy a couple of minutes in summing up "The Value of Consultation in Probation Work." Without any question of doubt, you ought to consult with your probation officers, with your judges, with your school teachers, with your social workers, charity workers and with every other known agency that is working for the uplift of that particular class of humanity that comes under our personal control. Always be ready for consultation because something may be beneficial to you and your probationer.

"Conferring between officers in different courts in the same city or county." If there is a chief probation officer who holds himself aloof from his probation officers, he is not doing the proper thing; he may feel it is lowering his standard of authority by mingling with his probation officers, and if he does, my own private and candid opinion is that he is taking a wrong track because he may have probation officers on his staff who have just as much good gray matter as he has, and if he will get down to their level he will learn something that will be beneficial to the community and probation system. Open consultation without the loss of authority is always beneficial to the probation system.

"Consulting with the judge." In the larger cities, I presume that is pretty hard; in the smaller cities and communities, it is easy. I consult with my judge on every phase of the situation; if

necessary, privately and secretly, before cases have been brought to his attention. If necessary, for the sake of reprimand, I tip the judge off as to the case I might be bringing back for violation and ask him if he won't bring out certain facts, and he will do so at all times. A friendly relation between the probation officer and the judge is absolutely essential, and if the judge has that confidence in his probation officer and believes he is trying to do everything he possibly can in his own line of work, he ought to make him his confidential adviser in many of those cases.

"Consulting with teachers and social workers." Many, many times in my dealing with juvenile cases do I come into contact with the kind of teacher who believes that the wisest way to get rid of the bad boy is to get him out of school. I won't obey all their commands in regard to removing boys, but, if necessary, I will take it up with the principal or superintendents of schools and see that the proper attention is given to the particular boy and is carried out to the letter. I believe in consultation with the principals of schools in particular. I deal entirely with the principal of the school in our city, and by the principal's activity in the line of probation work we work very successfully together. I believe probation officers dealing with juveniles should consult with teachers and principals whenever and wherever possible for the benefit of the boy, and try to get the teacher who is opposed to having an unruly boy in her class to realize that her responsibility is a little bit greater and that she should take an interest in that particular child for the benefit of the future citizenship.

"What information regarding probationers should be given out and what facts withheld as confidential?" The law itself specifically provides that you have no right to give anything out regarding probation cases without the consent of the authority over us. That law is strictly upheld in my city. I will never give out information without first consulting with my superior officer. Publicity about probation cases isn't going to help your probationer. Your work is the work of the friend who is trying to be friendly without publishing that he gave \$5 to charity. Charity is not worth a good deal if its going to be published. Probation is not going to be worth much to the probationer if you are going to exploit the case. Don't humiliate your probationer by advertising him as

being on probation. Wherever possible I try to avoid giving any publicity to the fact that certain cases are on probation. Our courts to-day are pestered with that newspaper reporter who sees a human interest story. I had a resolution passed asking that the State Probation Commission request the editors of papers to refrain from exploiting juvenile cases. That resolution was passed and a copy sent to every newspaper in the State of New York; it did good for a little while, but they have drifted away and are again finding human interest stories. You say they have no right to exploit the fact that Johnnie Jones was arrested and placed on probation and they tell you it is the biggest piece of news in the last decade. The authorities should pass some laws to the effect that they shall not be allowed to publish such stories. Personally, I am opposed to it. While I am in favor of giving publicity to the work of the probation officer, I am bitterly opposed to his exploiting any cases under his jurisdiction.

"The value of local conferences." How can we make our annual state conference more valuable?" The local conference has always been to me valuable. We learn by hearing the other fellow tell us how he is working. They bring us together. They acquaint us with each other; we co-operate; we become friendly to a great extent, enjoying the acquaintanceship for years afterward that we have gained at the meetings.

"How can we make our annual state conference more valuable?" I want to say now, as I have said at conference after conference, that we might differ materially with the things that one officer thinks, but I think we will all have to admit if we are fair and candid that the probation system of the State of New York has been brought to its present standard by the activity displayed by the State Probation Commission and its workers, particularly its secretary, upon whose shoulders fall the brunt of all the real hard work. Those of us who know the work that is actually being done know that the propaganda is being carried on by the Probation Commission and its active workers, and I stand ready to assist that organization, and I am sure every other probation officer stands ready and willing to assist them in everything they can do. We cannot give them enough credit for helping us and assisting us and spending their time and trying to get boards of supervisors

and justices of the peace to appoint probation officers and grant adequate salaries.

I want to differ slightly from Mr. Veiller's statement that a great many probation officers accept their positions for the opportunity to do good. Truly that was the system in the early days in social work, but the present day methods of selecting probation officers are getting us away from that. Men and women to-day are engaging in this work as a doctor engages in his profession. He does so for the benefit of humanity, but he also sees an adequate compensation for the years that he is putting in in the study of medicine and expects to receive adequate remuneration for it. And so the probation officers are giving up lucrative positions all through the country to enter the probation system. Why? Because they think that they see a future for probation officers; that along with their sympathy and their good views and good heart they will receive an adequate compensation for their work in the future. I don't mean when I say that that we are to have a spirit of commercialism; but I do say you must advertise the real work that is being done. There are places in the State where they don't know what probation means. In Yonkers before the issuing of a report in 1913 not over 20 per cent of the people knew what probation was. We got money enough to issue a report and we didn't exaggerate in that report; we stated facts plainly and showed them the savings in dollars and cents and the actual work done. As a result, the newspapers of the city came out commending the work and the salary of the probation officer was raised from \$1200 to \$1800. I call that advertising and I am still advertising, still doing my work conscientiously and honestly, and if you will do the same, in the future the probation officer will be paid adequately, the same as doctors, dentists and other professional men.

If there is no other probation officer having anything to say, I think it is only my duty to say I would like to entertain a motion that this conference go on record as complimenting the State Probation Commission, its officers and employees for the excellent manner in which the meetings have been conducted. (Carried.)

PARTIAL LIST OF PERSONS ATTENDING THE CON-
FERENCE OF PROBATION OFFICERS IN ALBANY
ON NOVEMBER 14, 15 AND 16, 1915

Mr. Max Abelman, Executive Secretary, Brooklyn Federation of Jewish Charities.

Miss Emma L. Adams, New York city.

Mr. Walter H. Angell, County and City Probation Officer, Cortland.

Miss Lucius M. Boughton, School Nurse, Albany.

Rev. Harry A. Barrett, Franklin County Probation Officer, Malone.

Hon. Joseph H. Beall, City Judge, Yonkers.

Mr. J. W. Boyd, Probation Officer, Brooklyn Children's Court.

Mrs. J. W. Boyd, Rosedale, Long Island.

Rev. Frank F. Blessing, Albany.

Hon. John J. Brady, Police Justice, Albany.

Miss Mary I. Breed, Secretary, Society for Co-operation of Charities, Albany.

Miss Edna G. Bridgeford, School Nurse, Albany.

Mrs. Elizabeth Barnett, Representative, Sisterhood Spanish and Portuguese Synagogue, New York city.

Mr. Frank E. Bullard, Probation Officer, Glens Falls.

Hon. Edmond J. Butler, Member State Probation Commission, New York city.

Miss Effie M. Carnright, Probation Officer, Children's Court, New York city.

Mr. Charles L. Chute, Secretary, State Probation Commission, Albany.

Hon. Alphonso T. Clearwater, Member State Probation Commission, Kingston.

Mr. William T. Connors, Probation Officer, Special Sessions Court, New York city.

Mr. William J. Cooke, Probation Officer, Lackawanna.

Mr. Algernon C. Cropsey, Parole Officer, Industry.

Miss Mildred Dennett, School of Philanthropy, New York city.

Miss Florence C. Dexter, Superintendent, Albany Girls' Club, Albany.

Miss Rachel Dunn, Principal, Ungraded School, Albany.

Rev. George Dugan, Albany.

Miss C. Josephine Durkee, State Department of Health, Albany.

Mr. George Everson, Secretary, Criminal Courts Committee, New York city.

Mr. Bernard J. Fagan, Chief Probation Officer, Children's Court, New York city.

Mr. E. Haldeman Finnie, Steuben County Probation Officer, Corning.

Mr. Thomas A. Fletcher, Chief Probation Officer, Utica.

Hon. Homer Folks, President, State Probation Commission, New York city.

Miss F. Funder, Lakeview Home, Staten Island.

Mr. James A. Garrity, Chief Probation Officer, Yonkers.

Miss Bertha Gooding, Yates County Children's Agent, Penn Yan.

Mrs. R. M. Goler, Children's Aid Society, Rochester.

Miss Gertrude Grasse, Secretary, Juvenile Probation Association, Brooklyn.

Mr. James B. Halbert, Probation Officer, Children's Court, Port Richmond, New York city.

Mr. William A. Handerson, Orange County Probation Officer, Goshen.

Mr. Frederick C. Helbing, Parole Officer, Randall's Island, New York city.

Miss Mary Hillary, Volunteer Probation Officer, Buffalo.

Mr. William F. Hodge, Onondaga County Probation Officer, Syracuse.

Miss Madeleine G. Hooton, Probation Officer, Binghamton.

Mr. C. Edward Jones, Superintendent of Schools, Albany.

Mr. Thomas J. Keating, Probation Officer, Albany.

Mr. John B. Keck, Nazareth Trade School, Farmingdale, Long Island.

Mr. James J. Kehoe, Court Attendant and Probation Officer, Syracuse.

Mr. George Keller, Castleton.

Mr. Laurence J. Kelly, Chief Probation Officer, Special Sessions Court, New York city.

Mr. William A. Killip, Chief Probation Officer, Juvenile Court, Rochester.

Mr. Joseph J. Kingsbury, Chief Probation Officer, Children's Court, Buffalo.

Mr. Hugh Knowlton, Assistant Secretary, Committee on Criminal Courts, New York city.

Mr. John F. Lee, Secretary, Sacred Heart Branch Catholic Boys' Protective League, New York city.

Mr. John E. Leibfred, Probation Officer, New Rochelle.

Miss Frances E. Leitch, Probation Officer, Special Sessions Court, New York city.

Mr. John D. Lynn, 2d, State Probation Commission, Albany.

Dr. Clinton P. McCord, Health Director of Public Schools, Albany.

Mrs. Jessie D. McKnight, Police Matron, Utica.

Mr. James E. McNamara, Probation Officer, Children's Court, New York city.

Mr. Patrick Mallon, Probation Officer, Children's Court, Brooklyn.

Mr. Don C. Manning, Parole Agent, State School, Industry.

Mr. Morris Marcus, Probation Officer, Children's Court, New York city.

Mr. Alfred J. Masters, County Probation Officer, Rochester.

Mr. William B. May, State Health Department, Albany.

Mr. Irving Melius, Albany.

Miss Mary Rebecca Moore, Superintendent, New York State Reformatory, Bedford Hills.

Mr. David W. Morris, County Probation Officer, Utica.

Mr. William H. Morse, Montgomery County Probation Officer, Amsterdam.

Mr. W. E. Mounteney, Westchester County Probation Officer, White Plains.

Mrs. P. W. Mulderry, Albany.

Hon. Edwin Mulready, Commissioner of Labor, Boston.

Mr. Clement A. Munger, State Probation Commission, Albany.

Miss Alma C. O'Neill, Albany.

Mrs. Emma D. O'Neill, Teacher, Ungraded School, Albany.

Mr. Emanuel Perrott, Probation Officer, Newburgh.

Mr. V. T. Pisarra, Assistant Superintendent, Society for Prevention Cruelty to Children, New York city.

Mr. Horatio M. Pollock, State Hospital Commission, Albany.

Mr. Henry H. Preston, Suffolk County Probation Officer, Riverhead.

Miss Rebecca Rosenberg, Volunteer Probation Officer, Rochester.

Mr. John T. Rooney, Probation Officer, Special Sessions Court, Brooklyn.

Miss E. Ruskin, Agent, Council of Jewish Women, New York city.

Mr. H. N. Saxton, Chief Examiner, State Civil Service Commission, Albany.

Mr. Arch C. Scoby, Probation Officer, North Tonawanda, N. Y.

Miss Marian D. Shove, Probation Officer, Children's Court, Syracuse.

Miss Ella Josephine Skeahan, Marshal, Reformatory for Women, Bedford Hills.

Hon. Fred B. Skinner, Police Justice, Medina.

Miss Alice C. Smith, Probation Officer, Women's Night Court, New York city.

Mrs. Sarah F. Smith, Probation Officer, Children's Court, Rochester.

Mr. C. A. Smithenson, Haddenfield, N. J.

Mr. N. C. Squires, Probation Officer, Mechanicville.

Mr. Charles Stark, Probation Officer, Dutchess county, Poughkeepsie.

Hon. J. B. M. Stephens, Monroe County Judge, Rochester.

Mrs. Rose E. Thalheimer, Chief Probation Officer, Syracuse.

Mr. John Trembly, Ontario County Probation Officer, Canandaigua.

Mr. Laurence Veiller, Secretary, Committee on Criminal Courts, New York city.

Hon. Frank E. Wade, Vice-President, State Probation Commission, Buffalo.

Miss Hannah H. Walker, Albany.

Mr. Richard A. Wallace, Probation Officer, Auburn.

Mr. Charles H. Warner, Superintendent, Westchester County Society for Prevention Cruelty to Children, Yonkers.

Mr. Howard P. Weir, Probation Officer, New York city.

Mr. Isaac W. Wentworth, Attendance Officer, Albany.

Mr. Daniel J. White, Probation Officer, Children's Court, New York city.

Hon. Charles S. Whitman, Governor of the State of New York, Albany.

Mr. William E. Wiley, Chief Probation Officer, City Court, Buffalo.

Mr. Charles W. Winter, Onondaga County Probation Officer, Syracuse.

SEVENTH ANNUAL CONFERENCE DINNER OF THE STATE ASSOCIATION OF MAGISTRATES, NEW YORK CITY, JAN. 21, 1916.

APPENDIX E

PROCEEDINGS OF THE SEVENTH ANNUAL CONFERENCE OF THE NEW YORK STATE ASSOCIATION OF MAGISTRATES, AT NEW YORK CITY, JANUARY 21, AND 22, 1916

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INTRODUCTION

The Seventh Annual Conference of the New York State Association of Magistrates convened in the Hotel Astor, New York City, on January 21 and 22, 1916. Fifty-two magistrates, representing different cities and villages, together with other persons interested in the problems of the lower courts, attended the meetings. Four sessions were held, including the annual dinner. The papers and discussions were of great interest and value and will be found, slightly abridged, in the proceedings which follow.

The officers and executive committee, elected to serve during the ensuing year, are as follows:

President — Hon. Edward J. Dooley, City Magistrate, Brooklyn.

Vice-President — Hon. Thomas H. Noonan, City Judge, Buffalo.

Secretary and Treasurer — Charles L. Chute, Secretary of the State Probation Commission, Albany.

The other members of the executive committee are as follows:

Hon. George C. Appell, City Judge, Mount Vernon.

Hon. Norman J. Marsh, City Magistrate, New York City.

Hon. Charles C. Chappell, Police Justice, Goshen.

The Conference of Magistrates is an annual event. By bringing together the Judges of the courts throughout the State in which most of the first and lesser offenders are tried, the peculiarly important social and humanitarian as well as legal and administrative problems of these courts are discussed by the judges to whom the community has given these problems for solution. The State Probation Commission, which originally called together the judges, has continuously cooperated with them in arranging these conferences and considers this work one of the most important of its various activities.

PROCEEDINGS OF THE SEVENTH ANNUAL CONFERENCE OF THE NEW YORK STATE ASSOCIATION OF MAGISTRATES

FIRST SESSION

Friday, Afternoon, January 21, 1916

PRESIDENT GEORGE C. APPELL, CITY JUDGE, MOUNT VERNON: I regret to announce that Mayor Mitchel who was to address us at this time has been called to Washington on some important business. Commissioner of Corrections Lewis will address us in his stead.

ADDRESS.

HON. BURDETTE G. LEWIS, COMMISSIONER OF CORRECTIONS, NEW YORK CITY: I regret very much that Mayor Mitchel cannot be present this afternoon with you to welcome you to our great city. Because, as a lawyer, as an investigator, as Commissioner of Accounts, as an administrator and as an appointing officer, he has shown his interest in the work of the poor man's court at every turn.

I am glad, however, to be here to welcome you to the city because I wish to take this opportunity to express the appreciation of our Department for the co-operation which has been given us by the courts, the district attorneys and the Police Department of the City. It isn't an easy thing to work together in this great common problem of handling the delinquents in a great city, but we have been able to put aside the little things and to co-operate to a remarkable degree.

As magistrates, you, of course, are considerably interested in the Police Department of your respective cities and I am sure you cannot be less interested in the Police Department of this great city of ours. When I was in San Francisco at the Exposition the police chiefs of the country asked to see the exhibit of the New York Courts, Department of Correction and Police Department several times, and asked to have the moving pictures of the New York Police Department repeated for them three times so that they cou'd get a clear understanding of the police work of this city.

You will be interested in our work here because it is true that our police department was never in so good condition as it is to-day; that it is working in harmony with the Magistrates' Courts as never before, and that the personnel of the Department was never in better condition and the *esprit de corps* was never so splendid as it is to-day. There are several causes for this; the most telling is perhaps because of the growth within the Department in power and influence of the young men who have been chosen as patrolmen by competitive examinations instead of being chosen along the old lines as the old-timers were. Among the immediate causes, I should enumerate perhaps as first, the fact that the Mayor upon taking office unfettered the police and left them reasonably free to deal with the gangsters and thugs that prowled about the streets by day and night; and second, his persistent refusal to interfere with the detailed administration of the Police Department; and in the third place, I should say, it is due to the excellent judgment shown by the capable and resourceful Police Commissioner of the city in dealing with that force. Never before, so far as many of us can remember, never before, as far as the memory of the inspectors goes, has there been a Police Commissioner who has co-operated with his whole staff as has Commissioner Woods. As soon as he took office he well understood that the thing lacking in police headquarters was co-operation between the men in uniform with the head of the Department and he started to remedy that at once. Every two or three days he has a conference in headquarters where he calls all the officers before him and they discuss their common problems and work out plans for the common welfare of the Department as well as for the development of the work.

As Magistrates, you are undoubtedly interested in experiments that are being made and developments being made with respect to the work in penal institutions as well as the work in the courts. I wish to call your attention to the Indeterminate Sentence and Parole Act which applies to cities of the first class and which has been put into effect in New York City by the appointment by the Mayor of the three citizen members of that Commission who took office on the 28th day of December. The Parole Commission provided by this law consists of five members: — the Commissioner of Correction as president; the Police Commissioner

as a member (both unpaid for this position) and three other persons appointed by the Mayor for terms of two, four and six years respectively, with a provision that their successors shall be appointed by the Mayor for ten years each. This Commission has power to provide conditions under which persons committed to institutions, that is to a reformatory or a workhouse or a penitentiary in cities of the first-class, may be paroled or released from the institution. In the case of Magistrates' Courts, it applies only to the class sometimes denominated "frequent offenders," and in the case of frequent offenders where evidence shows that they have been convicted twice previously of six different offenses within twenty-four months, or three times previously during their life and then the Magistrate must impose an indeterminate sentence not to exceed two years. That is to say, the sentence may run to two years and the term of sentence is to be fixed by the Parole Commission sitting afterward. The law provides that the Magistrate making commitment of these frequent offenders may sit as a member of the Parole Commission to pass upon the eligibility for parole of the person committed to an institution by him, so that there is no clipping of the wings of the Magistrates, as some would say. The only thing done is to change the time of fixing the sentence and likewise making it necessary for a majority vote of the Parole Commission to decide the term instead of the Magistrate fixing the term himself alone while sitting in Court. That doesn't apply to the first or second offenders. The Magistrate is left as free to-day as he ever was in making any disposition in the case of first and second frequency; it is only in the case of frequent offenders that this provision of law operates. You who are acquainted with the congested calendars of the Magistrates' Courts of New York City will appreciate what that means. Here the Judges are burdened with a great number of cases, particularly by a host of frequent offenders who go around the vicious circle of arrest, trial, conviction, sentence, a ride to the workhouse, stay a few days, a ride down the river, a discharge; which routine is followed through again by the police courts, district attorney and probation officers through a vicious circle.

Some fail to appreciate what that means to the institution. A commitment to the institution of these offenders under short terms is practically useless for the reason they are not held long enough

to cure them of disease. Eighty-seven per cent. of the women committed to the workhouse have been shown to have serious blood diseases in positive form. In the case of others, the pickpockets and jostlers, you cannot bring the fear of God into their hearts, if the most you can do is to give them six months. They don't mind being sent to prison provided they can go on the circuit again in the cities of the United States and then winter in New York at the expense of the city. But if a man needs to be held for more than six months and has been convicted several times previously under this Act after a careful scrutiny of his case if it seems necessary he may be held more than six months and the fear of God can be implanted in his heart so he won't return again.

I would like to give you an item or two from the report of our finger-print expert of the workhouse. There were 19,809 persons committed to the workhouse in 1915. Of this number 6,249 had been there three times or more; of this number 9,338 had been at least once before; 3,089 had been there twice before; 1,157, four times; 756, five times; 550, seven times; 437, eight times; 272, ten times; 197, eleven times; and so down, running to one person who had been there thirty-seven times.

Then another report, summary of the annual report, which is very interesting to us, shows that in January there were 28 persons committed to the workhouse twice within the month of January; in March 27 persons were committed twice; April 28; May 25; June 31; July 22; August 20; September 18; October 6; November 14; December 23, were committed twice within that month.

During the year 1915, 242 persons were committed to the workhouse twice within a given month, and eight were there three times within a given month,

One of the most difficult things we have to do is to teach these people how to work and reform them, if possible. It is pretty hard to talk to a man about reforming him if he happens to have gotten six months for the same job the other fellow got ten days for. It is a difficult thing dealing with these fellows because of the lack of uniformity in their sentences. This makes them cynical and gives them a careless attitude toward the officers of the law. You should hear their discussions of the magistrates, of their

peculiarities, how to work them or attempt to work them. They have all the magistrates lined up; they know whether to weep before some or stand in righteous indignation before someone else. It is all worked out and it is a great game.

In discussing this particular phase of the question, I wish to point out that this law makes it possible in our courts and in our Department, working together with the district attorneys, to take up the cases that are serious from the standpoint of human welfare and hold them so that the doctor can have time to do his work or so that the institution can do its work.

Because of the feeling among some labor men, I want to say I have seen very few people who could be taught in three years enough so as to seriously endanger any man in a trade in New York City who was a journeyman. These men haven't the ability to concentrate upon any thing; their hands are not trained; they are not trained in any way. Very few have reached the fifth grade in public schools. Thirty thousand of the eighty thousand in our department last year could neither read nor write, and 50,000 could only read, so you can appreciate what the educational problem is.

Then the discharge day comes. Under the new system it is possible to discharge a prisoner on parole under conditions, so that unless he does his duty, he is put back in the institution as a prisoner, and that is the worst thing that can be done from his point of view.

We put the Police Commissioner on this Commission and I believe it is a good check, just as I believe it is a splendid thing to provide in the more serious offenses that the judge should have an absolute veto as to whether a prisoner should go out again or not on parole. In the General Sessions and County Courts and Supreme Court a man cannot be released from the Penitentiary unless the judge who makes the commitment approves the recommendation of the Parole Commission recommending that re'case. You can see that this is a great check against any possible political action which may take place with respect to a commission which has the numerous powers that this Commission has.

I want to say a word about the drug evil. I can speak about it from the standpoint of trying to handle the drug addicts within the institution so as to bring about the cure of the victims.

I am glad to say we have gotten the greatest help from the act which Judge Collins drew, which provides in case a man is brought into any of our courts, if the doctor of our institution reports that he is addicted to the use of habit-forming drugs, the Judge can commit him to a charitable or correctional institution or hospital so he may receive treatment there, until the doctor of that institution pronounces him cured. That cure must be, if we can carry it out, a real cure, not putting a man through treatment for ten or twelve days and then releasing him in worse condition than he was before. The magistrate may make a commitment to Bellevue or some other hospital and then the man may be brought back and sent to the Warwick Farm Colony in the country. If you see these men who have been dragged down through the influence of drugs, as you do, and realize how weak they are in body and mind, how this drug has affected the lungs and made many incipient tuberculosis cases, you will appreciate that this medical treatment is only the beginning, and it is necessary to make provision for them to be held for treatment. Dr. McGuise in the Tombs, and other physicians, feel that frequently it will take one year's time to carry through the work that should be done in giving them the treatment, opportunity for rehabilitation and then release on parole.

When Judge Collins became a judge of Special Sessions he was appalled by the seriousness of this problem. I think anyone who looks into the criminal field will be appalled by the seriousness of this awful drug traffic which makes criminal of young men who cannot earn enough to supply themselves with these drugs and who are able to secure the drug only by petty and grand larceny. The second week after Commissioner Davis and I took office in 1913 we found in our district prisons 27 drug addicts held under different charges and all but three were under nineteen. On investigation we found every one was there for stealing something which they could sell to buy drugs with. Then we asked them how they began to use drugs. Some said they went to a "sniffing" party in the Bronx; this party was held every night in a certain section and when young people came to dance, after working all day and being tired, about eleven o'clock someone would come along and say, "Sniff this, and you can dance until

three and feel fine," and then they soon had the habit fastened upon them. Others said, they were working in a box factory and the man on the work next to them would say, "If you get tired at three o'clock, take one of these and it will make you feel fine until the whistle blows at five o'clock." Every other conceivable inducement was held out. We have had the cooperation of the Police Department, the Magistrates' Courts, the Court of Special Sessions particularly, and the District Attorney's influence, in working this problem out. We found we had a great consumption of drugs within our own institutions and some few — I am glad to say only a few — of our own employees were smuggling it in and it became necessary to remove those members of our staff. Our resident physician in the workhouse was convicted and he is now serving a term in Sing Sing. Some few of our keepers were convicted before it was possible to scare them out. All told there were seventeen of these employees of our Department and Charities Department convicted.

Another thing was the smuggling of the drugs into the institution by friends and confederates. We found these drugs were being smuggled in the food for the use of those who were awaiting trial, so it became necessary to shut out food and establish a commissary restaurant in our various detention prisons where the men could buy their food.

You, of course, will be more interested in the results. I am sure that the work done in our institutions by the doctors and in the Health Department hospitals has helped to check this evil to a great extent. The city is just appropriating \$100,000 to build new buildings on Warwick Inebriate Farm, so that those who are unfortunate enough to get in the clutches of the law may be sent there for treatment. Every day almost there is someone coming to me asking to be committed to the workhouse to get treatment. We have a treatment — not a cure. Dr. Bishop of our visiting staff had a hunch one day and that hunch was that drug addiction was a disease and that it was to be treated as a disease and not a habit. He is still working on it, and says each case must be dealt with upon its merits. He has worked out a plan of procedure. They get the kind of diagnosis they would get for typhoid or any other disease. He has been very successful. In large part

the chief merit of his cure, if we call it a cure at all, is that the patient doesn't have to go through the excruciating agony of the period of treatment that he has to go through in the case of many of the other treatments. They say themselves that this treatment is harmless and painless and that they never realize they are going through the period of suffering, but if you were to see the raving maniacs we have while going through *some* cures you would see the difference. The drug users themselves tell me that the chief merit of the workhouse treatment lies in the fact that when they step out of the institution there isn't present in their mind that horrible experience which they have gone through, which brings back the fact that they formerly used drugs, a haunting fear which leads right back to the drug. If they have none of that agony to go through and none of that experience to recur to, it is much easier for them to make their way.

Under the terms of this Indeterminate Sentence Law instead of the man being discharged from the Penitentiary he can go on parole and our parole officers and Police Department can work with him and help him get a job and keep it, and he will have hanging over him the danger of going back to the institution as against the too prevalent practice of having no one meet him at the dock except the old friends to catch him if he used drugs in order to make him an agent again. They fill him with the drugs the first night when he is reacting from the prison discipline and control which has been removed, and of course if he goes back the first night, it is a pretty sure thing he is going to stay back. Under the new law he has the parole officer to meet him and he must have a home before he can be released. It is the business of the institution to make him fit for the job and the business of the parole officer to see that he stays in the job and that the outside agencies, the Big Brothers, the Prison Association and all these other agencies, help him. We have an opportunity to do a great piece of work in the city if we can keep our heads and hearts together. We hope the Police Commissioner on the Parole Commission and the judges will be sufficient to keep us from getting too soft. Hereafter the city will utilize the information gained while these men are in the custody of the different institutions. We have thrown that experience away hitherto and the information gathered by our keepers hasn't been utilized. Now it must

be utilized; we cannot get on otherwise, and we are hopeful that as a result, we can cope effectively with some of the serious situations we have had to meet. The immediate effect has been to drive the pickpockets out of the city and likewise the vagrants. The women of the streets have gone to Philadelphia and now they are going to Cleveland. I hope they will stay somewhere else except around here, because it costs \$24 to give them four treatments of 606, which is the only thing that will begin to cope with the ravages of blood diseases.

PRESIDENT'S ADDRESS

PRESIDENT APPELL: If you will read the Preamble of our By-Laws, you will notice these words: "The New York State Association of Magistrates is formed to promote an interchange of ideas and experiences concerning the work of courts of inferior jurisdiction and children's courts; to develop a consensus of opinion as to the wisest methods and most desirable improvements in such courts, and to promote appropriate legislation." If any organization has lived up to its preamble I think it may be said with great truth that our organization has attempted to live up to its during the past year.

I believe it is within the province of the President to give some general cursory idea of what the organization has intended or has actually accomplished during the past year, that is to say, from the date of our last convention. As you recall, after the most interesting sessions last January in Albany, several important committees were appointed, chief among which I think was the Committee on the Constitutional Convention which has been so ably headed by Judge Noonan of Buffalo. We had intended to appear before the various committees in the Constitutional Convention and to seriously advocate the institution or inauguration of several important matters. Judge Noonan deserves our commendation for the unselfish work which he has done on this committee. He was mainly instrumental in the preparation of the printed brief advocating the changes and reforms which we wish incorporated in the Constitution of this State. This brief was sent to all the magistrates last year and it was spoken on very urgently by Judge Noonan and some others of us before the

various committees of the Constitutional Convention. Of the eight Constitutional amendments endorsed by your committee, two were actually adopted, although in modified form, by the Constitutional Convention, but, as you know, they went into the scrap heap last November. However, I don't think we should let our work in that connection rest. I believe it to be our duty now to take up those reforms which we have been talking about and to attempt to secure by legislation some, if not all, of the measures which we sought to have adopted. I think before the close of this convention we should appoint a committee to take up with the Legislature some of the more urgent reforms which we have advocated. While Judge Noonan did possibly nine-tenths of the work of this committee, some of us met with him on June 30th at Albany. Besides myself, there was present at that time Judges Dooley, Byrne, Noonan, Brady, Chappell and Bryan. We also appeared before the Judiciary Committee of the Convention and while treated very courteously, we did not have the success which it seemed our ideas warranted. I would like to talk further on the question of the uniformity of jurisdiction which we have discussed on one or two past occasions, but I feel Judge Noonan will take that up in the report of his committee and I will leave that for him to discuss.

One of the pleasantest trips which has ever been my pleasure to make was made last month. I had made a resolve last year that there should be a closer union of the various magistrates in the State and that, if possible, a greater interest should be instilled in this work; that the Association should have an enlarged membership; that the attendance at the convention should be from all over the State instead of a few districts. So in conformity with that plan, I made what I termed a tour of official visits last month, taking in eight or nine principal cities, and there discussed with the judges various problems which we meet, and also took it upon myself to appoint each one a committee of one to be a missionary for the good of this convention which we are now here attending. This "official visit" trip I believe to be productive of great good and I am going to strongly recommend to my successors in office that they continue the practice. The more time, thought and energy our officers give to the Association, the more important and effective will it become.

And this convention is general today. We have representatives from Niagara Falls, Buffalo, Rochester, Syracuse, Utica, Albany, Newburgh, Hudson, Binghamton, and other cities. I hope that at the dinner tonight the interest in our Association will be evidenced by even a larger attendance than we have here today. I, of course, realize that many of the metropolitan judges are busy with their work today, but we hope to see them tonight.

I wish to express my deep appreciation to the officers (and especially our Secretary, Mr. Chute) and committees for the earnest and faithful support given me during my administration; that assistance has made possible this fine gathering. I now declare this conference open for the transaction of business.

THE TREATMENT OF CASES OF PROSTITUTION

HON. NORMAN J. MARSH, CITY MAGISTRATE, NEW YORK CITY: I should hesitate to talk on this subject, except for the statement of the chairman that this is a discussion and that I am simply to open it. What I say will be more a text than a sermon, more a question than an answer.

Perhaps in speaking on the subject at all, I might try to confine myself at first to the wording of the subject: the treatment of cases of prostitution in New York City. What do we actually do? You have read Mr. Flexner's great book, and other works on the same subject, and they teach us that the question of prostitution is a different question for every locality. In a city of 30,000 it is one thing, and in a town of 5,000 it is another. In a city of upwards of five millions, it is still another question.

In this city a woman is seen upon the streets or in a tenement house by a police officer. He watches her, perhaps follows her; perhaps has some conversation with persons with whom he has seen her speak, and he makes up his mind that there has been a violation of the law,—the law against soliciting, loitering, keeping a disorderly house; or a violation of the tenement house law,—and he arrests her and takes her at once to the station house. That in a sense is her first trial. At the station house she is arraigned before the lieutenant at the desk; there the officer tells what he has seen and heard and what he knows about this woman; and there she makes a defense, if she pleases, denies it, or explains

it. The lieutenant has the power to let her go, to overrule the officer. That, in a way, is her second trial. If the lieutenant thinks there is a case, and the Night Court is still in session, she is sent immediately to the Night Court. If she comes down to the Night Court for Women, her case is taken to the complaint room. There we have men, able and conscientious, of great experience, with a practical knowledge of the law and the work of the court. They hear the officer's statement, and if they decide that a violation has been made out then the complaint is taken. If they decide there has been no offense committed, or are uncertain as to what the charge should be, the facts are submitted to the judge for his opinion. That, in a way, is her third trial. Then she comes up before the judge, and she is then warned of her rights — her right to adjournment, to get counsel, to communicate with her relatives and friends; and this is impressed upon her. We let her understand this is only a beginning. "Don't you want to see your friends now," we ask her. If she decides on an adjournment, it goes over until the next night. Now she comes in on the next night. In the meantime, she has had every opportunity to get bail; first at the station house, and then at the court; and she comes up for trial. The officer is sworn; all the preliminaries are observed. The officer tells his story; he is cross-examined; he calls any witnesses he may have; and then the defendant is asked to speak. If she appears by counsel or not — very often she has no counsel, but many times she has very able counsel — everything is done to help her; she tells her story and is cross-examined; if by the magistrate, very gently. It is a hard thing to be the judge, the district attorney, the attorney for the defendant, and the jury, at the same time, and the questions asked by the judge are only questions to help her along and get at the story. If we began to cross-examine her as you would in a negligence case, if you were an attorney for the defendant, I think we would soon get into trouble. So she tells her story with what help she can get from the judge.

Then comes the decision. That makes her fourth trial. If she is found guilty she is taken to the finger-print bureau in an adjoining room, and in about ten minutes she comes out before the judge again with the report. If she has never been there before, the paper will show, "No previous record," and you

know exactly what to do. Without waste of time, she is sent to the probation officer, a most intelligent, industrious, faithful, devoted and experienced woman, who has helped hundred of girls and given them a new start. She talks with the probation officer, who tries to get the names of father, mother, sister or husband. "Who can help you?" "Whom do you want to send for?" Perhaps the girl will not give any information the first night. In that case she goes back to the judge and is remanded for forty-eight hours. During that time someone arrives — husband, father, mother — and the story is all gone over with the probation officer and the girl comes up for sentence. Then with what help you can get from the probation officer, you determine the sentence. With such a system, there is little chance for a mistake.

If she is a first offender, almost invariably she is put on probation for three months or six months. During that time she reports once a week, once in two weeks — whatever the probation officer requires. In New York City, we are happy in this, that we can get positive help for her — not advice, but money, help that will keep her until she can adjust herself again to circumstances. She can be taken to any one of several homes, and kept with her consent for a week or a month, and they will try to get her help and employment, study the situation from which she came, the housing, the home life, early history — all those things; and with that help she gets along through her probationary period. The number who fail, for whom probation is revoked, is very small. Certainly 90 per cent. finish in good shape. We impose no fines. It is either probation, commitment to an institution, or a work-house sentence. Of those who finish their probation well, occasionally some come back, not very many; but if they go on and behave themselves for a year or two years, there has been a distinct gain. These cases I have spoken of are for loitering and soliciting.

If she is a second offender, then it is for the judge to say what to do. There is no reason why he should not put her on probation again, especially if a period of a year has elapsed since the last conviction. If she has been arrested and convicted several times, then it is another problem. We try to send her to one of the institutions — the House of the Good Shepherd, the Magdalene Home,

the House of Mercy; and there she is taken care of and taught and helped; and after a little while, if she shows improvement, the law says, that upon the petition of the head of the house and the consent of the magistrate, she can be released. She may go also to Bedford, the State Reformatory, where she can be taught some gainful occupation.

If it happens to be a violation of the Tenement House Act,—that is if the same thing that we have been considering as occurring on the street occurs in a tenement house,—then we are limited in the disposition of the case. We must not suspend sentence, even for the first offense. We must not put her on probation, even for the first offence. I think that is a mistake. We ought to have the same power with the first offender whether the offense is a violation of the Tenement House Law or not. But if it is an ordinary case and the defendant is young, we can send her to one of these institutions I have named, and after a little while she can be taken out, if her future is provided for. You gentlemen, as lawyers who have made an application at the Governor's office for a pardon, know that Governor Odell or Governor Black would say, "What are you going to do with him when you get him out?" Now an answer is necessary here. What are you going to do with the girl when she is set free?

Another thing that can be done for the first offender is to send her to the workhouse for one day, and that one day expires at one o'clock that night. Again, the case can be adjourned from time to time. In the meantime, she can be paroled and supervised.

But the purpose of the law which says you shall not put on probation or suspend sentence in a tenement house case, is good. The reason, of course, is obvious. We live here in New York City largely in tenement houses. The men who have a piece of ground around their houses are few and far between. The law is for your protection as a citizen. If you take your wife and children into a tenement, you want to be sure your neighbor isn't keeping a disorderly house. In the tenement house cases, we impose severe sentences. But as to the first offenders, I think we might be given a little more leeway.

Now, as to the work of the Night Court for Women. In 1912, the whole number of cases disposed of was 6,495. Of those, 4,440 were cases of prostitution; the remainder, disorderly conduct,

breach of the peace and the like. In 1913, 6,134 total, and of those, 2,898 were cases of prostitution. In 1914, the total was 6,506, and of those 3,000 were cases of prostitution. All the work of the court is done by four judges. This insures reasonable uniformity of treatment.

I suppose I shall find an echo of assent when I say our work as judges would be of very much less importance than it is, if it were not for the system of probation, this helpful idea, this saying to a man or woman, boy or girl, "Now, forget the past. This is the 21st day of January; start anew tomorrow on the 22nd, and we will help you — not with advice alone, but with money, with work, with encouragement." These probation officers are assigned; they follow people up; they keep control of them, and while the public may think if you put someone on probation there is no punishment in that, yet it is a limited confinement; they cannot go away — they do disappear, of course, but it is a negligible quantity, those who disappear.

In speaking of the work being done here, let me say that the treatment of cases of prostitution in New York City is the result of the best thought of devoted, earnest, intelligent men and women, expressed in statutes, and worked out through the agency of the Magistrates' Court. I believe the underlying idea is what Blackstone said many years ago: "The highest function of a criminal law, is to make it hard to do wrong and easy to do right."

You remember in the Bible Solomon says — and he was said to be a wise man — "There be three things that are too wonderful for me, yea, four which I know not: the way of an eagle in the air; the way of a serpent upon a rock; the way of a ship in the midst of the sea; and the way of a man with a maid."

Going back to Mosaic times, you will find they recognized the presence and evil of prostitution, which they seemed to think was entirely necessary; and Moses, the great law-giver, never did anything to suppress prostitution as an institution, to stop it; but he did everything he could to protect his own people. So you will read they imported for that purpose, women from other tribes and peoples. Those women were prostitutes, and they set up their tents and booths along the highways outsidess the cities, and there they plied their trade unmolested. Hence the strange woman!

Now, what must be our attitude as judges, on the question of prostitution? How must we look at it? You have read, as I have Lecky's great work, *The History of European Morals*. How he points to the prostitute and calls her the saddest figure in history, the priestess of chastity, how she has taken all the evil upon herself so that others, her sisters, might go free.

Then there is the doctrine of *laissez faire* — let well enough alone. Prostitution they say was widespread at the time of Moses; it was here when Lincoln freed the slaves; it will be here when we are all gone. It is a bad thing, of course, but you can't get rid of it. You will only make matters worse by stirring them up. Plato was a wise old Greek, and when he forecast an ideal state, the Republic, that you studied about in school, he pictured a people among whom slavery was the normal condition of the great majority. But slavery has been abolished, except in remote corners of the earth.

As I understand it, the attitude of these men and women of whom I have spoken, and the attitude of the writers since 1905, the attitude of the people who have done more to help the situation in the last ten years than had been done in any five hundred years before, is this: that prostitution is an unqualified evil. I am not going to depict the horrors of an institution which you know better than I do, but here are two things which appeal to me. Here are two things which make everyone sit up and take notice; two things that you cannot explain or laugh away, and which prevent you from looking upon your neighbor's trouble with entire complacency. You heard Commissioner Lewis say here this afternoon in his address, that of those women who went to the workhouse, 87 per cent. were diseased. I asked him afterwards what he meant, and he said he meant syphilis. Eighty-seven per cent. — that is pretty nearly nine out of ten afflicted with syphilis. Now, it seems to be a fact that if a prostitute starts in at sixteen or eighteen years of age, she gets these infectious venereal diseases and throws them off sometimes, and as she gets older she may become almost immune; but if she becomes immune she is still a common carrier of disease. You may call her not a common prostitute, but a common carrier; and she infects men and those men carry it out to all the quarters of the earth. Eighty-seven

per cent. of them diseased, all of them distributors of disease. Now the facts are simply appalling. We take the greatest precautions to guard against scarlet fever, smallpox, diphtheria, but nothing is done to guard against syphilis — more deadly than any — because you mustn't talk about it. It is mysterious, only spoken of in whispers. When we begin to talk out loud, something is going to happen. People die by the thousands of syphilis, and their deaths are disguised as paralysis, some form of cerebral or spinal trouble, or heart disease. Its victims fill the grave-yards and the lunatic asylums, and its poison is passed along from generation to generation.

The other proposition that appeals to me, to which there seems to be no answer, is this: I told you that in 1912, 4,440 prostitutes passed through this Night Court at the corner of 10th street and Sixth avenue. Nobody knows how many prostitutes there are in the City of New York, or in Philadelphia, or Boston, or Chicago, or New Orleans, or San Francisco; but they work it out in Europe like this: In Hamburg, Paris, Berlin, Brussels and other places where they have some system of regulating prostitution, where the women engaged in the business are supposed to be licensed and numbered, and are supposed to report for medical examination, they estimate that the whole number of prostitutes is eight times the number inscribed. For instance, if there are three thousand on the police books, there are twenty-four thousand engaged either regularly or occasionally. State license is no remedy at all, and regulation does not regulate. If you have four thousand prostitutes arraigned in court, you must have at least twenty thousand throughout the city. The same is true of these other American cities I have named.

Now, the life of a prostitute is about six years. It used to be said three, four or five, but six or seven is nearer the truth. That doesn't mean she dies, but after that she disappears. Some die; some marry; some reform completely and take up gainful occupations; but they disappear from the streets of the city, no longer work as prostitutes. The number of prostitutes doing business is pretty nearly stationary; more or less, but practically the same number, in all these American cities. With this great quantity disappearing, how do you maintain the business? It is kept up

by a fresh supply of new girls every year; young girls, more or less innocent girls, all ignorant of what is before them, lured into it by lies, false promises, hopes of a life of ease, perhaps driven into it by economic conditions. Any way, they are there. Who is going to supply the thousands of new girls for 1916? The new ones for 1917? Where are they to come from? Do you know of any family willing to supply one? And thousands are needed. Ask some man to permit some woman intimately connected with his own family to join this oldest of the professions, which he will tell you is quite necessary and always existed, and he will froth at the mouth with rage. That harks back to the old times; bring in the foreigner and strange woman, but don't take ours!

In the old countries they figure it out that the supply comes mainly from the working classes, from the unfortunate, the ignorant and mentally deficient. Where are they to come from in America? You are confronted with these two propositions: What are you going to say about this spread of an infectious, loathsome and deadly disease? What are we to do about this fresh supply of young and innocent girls? It harks back to the question of democracy. Have we any subject races from whom we can get the supply? It harks back to that other Bible story where Mordecai went to Queen Esther and asked her to intercede for her people with the King,—“Think not, O Queen Esther, that this evil shall come upon thy people and thou alone escape.” Think not that this thing can go on without hurting you and the whole American people.

The aim of the law is not to suppress immorality, not to destroy vice as vice, but simply to put down and destroy organized vice, commercialized vice; this thing called prostitution, which is a man's business, carried on by men; the pimp, the procurer, the owner of the disorderly house are all men; the women are victims, mere merchandise, the raw product of the business. In their lives they are unhappy and wretched, robbed of their earnings by their masters and the public, and kicked and cuffed about the world to die at last in jail or hospital. It is against this thing that civilization has set its face. The normal relations of men and women do not enter into this question at all. There is no question of personal liberty here. Prostitution has no more relation to the normal passions of adult men and women than the sewers of this

city have to the trout streams of the Adirondacks. Prostitution is a sham and a fraud! It promises what it never delivers. It is a mere pretense, and these girls are brought into it either by force or under false representations.

The only attitude we can take, then, is that which views it as wholly evil, and demands its complete suppression. Like Emerson, let us hitch our wagon to a star. The business of exploiting women for money in great cities must come to an end. It is a city problem. In the country it is almost negligible. It grows up where great numbers of men congregate.

We didn't make the laws; the police didn't make the laws. We only execute the laws in a spirit of fairness, a spirit of kindness, having in mind the welfare of the individual and the community, and having in mind that this thing is a menace to the family, to the community, to the state and to the nation.

HON. WILLIS K. GILLETTE, POLICE JUSTICE, ROCHESTER: Perhaps I was assigned to this subject for the reason that I come from a city of the first class, so called, because in cities of the first class we have some phenomena that scarcely could be denominated as first class things, and as has been indicated by the previous speaker, these things are more abundant in large cities.

The statistics of 1900 show that in Berlin there were 142 prostitutes to every thousand of population. In countries of Continental Europe, which is a far older civilization than ours, it has been the custom to treat this vice as a necessary evil, to regulate or license it. Those who discuss this subject are divided into these two parts, those who believe in regulation and those who believe in abolition. All agree as to the mischief due to prostitution, as to the difficulty of suppressing it and as to the unwisdom of allowing it to flourish rampant. The abolitionists insist, however, that regulation fails to achieve its purpose; worse still as they argue, the moment prostitution is accepted, provided it submits to certain rules, the State is placed in the position of authorizing, legalizing, or privileging the practice of vice.

The regulationists claim that the privileges conferred do not embody the license to do an immoral and illegal thing, but merely involve common sense acceptance of the inevitable. The abolitionists retort that, verbal quibbles to the contrary notwithstanding, regulation is a compact with vice. Regulation, it is claimed, is

necessary to the preservation of order, and promotes the public health.

The regulationists endeavor to handle prostitution by inducing it to submit to certain rules; they urge as a fact that prostitution exists, is a social pest and cannot be summarily wiped out, and some claim it to be a necessary evil in large communities, something, however, will be gained for decency, health and order, if the evil can be forced to conform to conditions laid down by the police authorities. This is largely the European policy where they, believing that it is a necessary evil in large communities, try to subject it to police surveillance by inscribing these women; that is the method of registration where certain police regulations can be imposed upon them, such as prohibiting soliciting on the streets, from windows and apartments, prohibiting them from walking in certain localities, compelling them to submit to medical examinations and treatment, at certain intervals, which are supposed at least in a measure to prevent the spread of venereal disease. It is doubtful, however, if it even serves this end, because these medical examinations give to young and inexperienced men an idea of safety, which is unwarranted for the reason that these examinations are made so hurriedly and inadequately, and even if thoroughly made they form no real safeguard. For example: A woman examined medically to-day might show no positive signs of venereal disease or infection of any kind, and yet at the time or within one hour she might be infected with syphilis and this disease would not manifest itself for two or three days. During the following two or three days she would be in a condition to infect others; and if eight or ten days elapsed before a medical examination was made, she might infect 100 men in the interim, because she would possibly entertain not less than ten men during a period of twenty-four hours. Therefore these medical examinations give a false sense of security to the men who patronize these people.

Another disadvantage of attempted regulation of this class is the complaint that it creates a compact with vice and leads to a disrespect for the enforcement of law, that it makes the enforcement of the excise law and other laws more difficult, and it leads to graft on the part of officials and generally to the corruption of

the police force. An attempted and what often amounts to a successful blackmail is accomplished by police regulation, which gives rise to utter disregard of law enforcement.

In European countries "Bordells" commonly called sporting houses here, are permitted to exist, but advanced thought in this country and elsewhere is against the existence of these institutions. It has been claimed that if you abolish these institutions, you simply spread the evil to the residential and other districts of the city. That it is a necessary evil in large cities; and that our wives and sisters, dear to us, would not be safe on the streets were it not for these places of public prostitution where a man can satisfy his passions.

Assuredly the economic burden imposed upon society by prostitution is comparable with that due to standing armies, war or pestilence. The unproductiveness of this army of women should be transformed to a constructive and productive force. The waste and expenditure for alcohol, gifts and demoralizing amusements, and the long score chargeable to venereal diseases, viz., insanity, paresis, locomotor ataxia, blindness, epilepsy, etc., are strong arguments in favor of the abolition of this vice, to say nothing of the hundreds of cases where disease is acquired innocently, as through use of towels, through heredity and in other ways. You will find that many of our hospitals and asylums are filled with the victims of this dread disease which culminates in paresis and insanity, and a large percentage of the blindness of infants is due to gonorrhoeal infection. Doctors regard this matter of so much importance that in nearly every case of child birth a drop of nitrate of silver is dropped in the infant's eye to prevent this gonorrhoeal infection.

We are forced to admit, however, that this vice can never be totally eradicated or suppressed. We appreciate that social and economic conditions are such that young men cannot marry at an early age, which gives rise to part of the demand for illicit sexual intercourse; and that this sexual impulse is a primary desire implanted by the Deity in the breast of man even as forceful as thirst or hunger. The best we can do is to repress it as far as possible. We contend that the attitude of Europe in trying to regulate and license it is not the best plan. We should hit this

vice and hit it hard and cooperate with the police in repressing it, as far as possible.

We have had some experience in Rochester in this matter of segregation of prostitution. In 1912 our progressive chief of police essayed to eradicate the segregated districts, so called. Some of you have had similar experiences in other cities. Syracuse has abolished the red-light district, and it was argued there that it was an unwise thing to do. Our police chief contended that he thought it would reduce crime and he thought that district was responsible for a large proportion of crimes existing in Rochester. This attitude has been justified by the results which have been achieved since, because crime has decreased since 1912 in Rochester. Some of the young men who frequented those places would commit crimes in order to get the money to go there. We do not contend that prostitution is absolutely at an end in the city of Rochester. What we claim is that public, commercialized prostitution exists there no more. Clandestine prostitution probably always will exist in a city of 250,000 or more. That is continually cropping out in different residential districts, but we have only about four cases a month where people are arrested for conducting and frequenting disorderly houses.

In cases of people addicted to this vice, they are largely recruited from the lower classes and from among the younger members of society, girls between sixteen and twenty-one, before reaching their majority. When those cases are brought before me for the first time they are always subjected to a physical examination by our police surgeon and if found infected they are sent to our municipal or county hospital for treatment. The treatment there I assume is perhaps inadequate, but when they are treated sufficiently to render them not likely to communicate the disease they are discharged with instructions how to continue the treatment, and if it is the first offense they are paroled to the woman probation officer. We have one who is a most earnest young woman with a sympathetic heart and purposeful soul and energetic body; she goes into the homes and tries to remedy the conditions, watching over them with a motherly care and interest. She seeks to surround them with religious influences. We have come to the conclusion that there is nothing short of a miracle that will reform

many of them, and if there is anything that can save them it is surrounding them with religious and refining associations and influences in order to lead their minds away from their sordid modes of living. Young girls should be kept in more at night and required to dress more modestly. Sometimes we send them to St. Ann's Home and to other institutions. We have the right to commit to Albion but only in cases of prostitutes who have repeated several times and where they look to us to be hopeless and also diseased, do we do so.

As I have contended before, I don't believe in the segregated district. This district in Rochester was located on Hill street. On one side was the Erie Canal and the other side the New York Central tracks, no residences; away from the residential district, isolated and where it would be the least offensive of any location that could be selected. At the same time the Chief felt it was an immoral influence, and Rochester is better off without that district. We are doing our best to repress prostitution wherever we can. To that end, the Chief has been visiting and abolishing the dance halls, concert halls, and ladies' sitting rooms are not permitted to have stalls or curtains. We are trying to bring about a rational management of the drink and amusement traffic. A compromise with this vice causes disrespect for law. It is easier to enforce excise laws where prostitution is repressed.

Perhaps we need different reformatories for women of this kind. I am greatly in favor of these young offenders having proper probation officers who can lead them to see the error of their ways; get their feet planted on more solid ground; surrounded with better educational and moral influences. That, to my mind, is the chief hope for these people.

HON. JOHN J. BRADY, POLICE JUSTICE, ALBANY: I was wondering whether or not if we had something like uniformity of law so far as the State is concerned on this particular subject whether we up the State would not be placed in a better position to deal with this very important question than we now find ourselves. Of course, we all know the difficulty in convicting a woman of solicitation on the streets. We have all gone beyond the point where we will attempt to convict her of being a vagrant, because

she is a common prostitute, except in rare cases where we have in hand sufficient evidence; but usually this offense is one which when committed is committed under such circumstances that it is a difficult proposition for the magistrate to contend with. He simply has the testimony of the police officer and very seldom that police officer even in his complaint makes sufficient statement of fact as to really constitute a complaint. We up the State have the general statutes to refer to, particularly the sections in the Penal Law and in the Code, and I find that we have perhaps the best opportunity offered us to formulate a complaint for street soliciting under section 720 of the Penal Law,—annoying or interfering with people on the public streets. These complaints made in our city have been sustained by the upper court.

I believe that one of the means of sustaining prostitution is the maintenance on the part of those who are in the business only from a commercial point of view of concert halls or meeting places. This kind of place produces a class of women who are found on the streets. I believe that in our various cities if such places were to be eradicated, and if the law was to go after those who maintain them, we would remove one cause for bringing forth this great number of young women that Judge Marsh has referred to which must necessarily fill the gap each year, which has been made as a result of the older ones dying.

THE USE OF THE SUSPENDED SENTENCE AND PROBATION FOR ADULTS.

HON. ALEXANDER H. GEISMAR, CITY MAGISTRATE, BROOKLYN: Precision requires, of course, sufficient preliminary definition of the terms used in the title so as to prevent confusion of thought with respect to their meanings in this short paper. In the New York courts, suspension of sentence means suspension of the imposition of sentence. It may also mean, suspension of the execution of a sentence specifically imposed, whether of fine or imprisonment. Under the provisions of section 483, subdivision One of the Code of Criminal Procedure, suspension of the imposition of sentence in the New York superior criminal courts may be accompanied by an order placing the defendant upon probation. Therefore in these courts, probation is merely an incident of the suspension

of sentence. Probation has been tersely defined as a judicial dealing with a convicted person without sentence and as a substitute therefor. The well known section 11-a of the Code of Criminal Procedure is the general charter conferring upon our courts the statutory power to put into effect a system of probation. But here must be noted an important distinction which applies only to the Magistrates' Courts of New York City. By a comparatively recent amendment contained in section 88, subdivision six of the Inferior Criminal Courts Act, reading as follows: "the magistrate may suspend sentence or place such person on probation,"—it would seem clear that in these courts suspension of sentence is not a prerequisite to probation but that the two belong to entirely different and distinct categories. Probation in these courts is to be regarded then as a substitute for sentence or indeed, as some think, a sentence in itself. I mention this point because some of us seem as yet not to have been able to get out of the habit of indorsing upon the papers the now obsolete formula, "sentence suspended *and* placed on probation," which is, to say the least, inaccurate.

In this necessarily brief treatment of these two subjects, firstly, probation and secondly, suspension of sentence, I shall try to avoid as much as I can traversing the same ground that has been travelled over so often, with the hope of laying stress only on what seem to me some of the really important factors that should challenge our earnest consideration. Our point of view is that of the man on the bench. These two finely humanitarian devices, suspension of sentence and probation, first extensively used in American courts and adopted from them by foreign courts and legislatures, have now been in existence and utilized for so long a time that they surely have passed beyond the merely sentimental or even the experimental stage. The time is ripe for careful, systematic study based upon data scientifically collected and sifted.

As to probation the most essential point to be stressed by the judge on the bench is that he is the moving spirit in a drama which is not one of mere sentiment or of soft humanitarianism but one which follows fixed rules and established principles. Our system of probation may not yet be a science or even an art, but we are hopeful of the time when it will be developed to this high

dignity. Certainly the first, if not the chief, instrumentality to bring about this great development is the main body of the judiciary which shall establish the value of recognized rules by applying them and lead the way to the discovery of greater and better principles by the exercise of thought and care. The hope of the growth of a system of probation as an approved science need not create the fear that this will mean the banishment of sentiment and the death of the spirit in an impenetrable encasement of heartless laws and rules of thumb. Always will there be present the personal equation bulking large in the particular personality of the defendant before you, for whose individual needs hard and fast rules must be mitigated or even broken. But it does mean this, that the objectionable personal equation which is often but too much in evidence, namely, the personality of the judge, his peculiarities, prejudices and idiosyncracies shall be repressed as closely as may be to the point of extinction in determining upon the sentence and the conditions of probation.

I read in a report of a county probation officer that rural justices of the peace have repeatedly refused to place on probation persons who were neighbors of theirs, because they happened to have been well acquainted with them. One justice is reported to have said, 'If I put this defendant on probation, he will have it in for me; he will come around and set fire to my barns.' Another one when asked to place a certain person on probation answered, "I wanted to put him on probation but I shall fine him twenty-five dollars; everybody around here has dared me to fine him and I am going to take the dare." Of course these extreme cases of caprice may not find any counterpart in the metropolitan centers and are cited merely as broad illustrations of an attitude of mind which is by far too subjective. I believe most of our judges are trying earnestly to learn the art of objectivating each case so as to determine exclusively the treatment most beneficial to each particular defendant and entirely apart from all whimsical or personal considerations. Uncompromising objectivity is the one attitude of the judicial mind which will lead most fruitfully to the result that probation may grow into and be regarded as a dignified, scientific procedure.

Not least also among the ancient idols, and one of the most

persistent, the influence of which must imperatively be thrust out of the judge's mind, is this, that probation like the sentences prescribed in the Penal Law still looks to the offense. Once probation be decreed, the court shall see before it the offender and no longer the offense excepting in so far as the latter is a guide and index to the defendant's shortcomings which are to be corrected. We have all known convicted felons whose hearts were softer, whose characters were more malleable and whose minds more amenable to reformative influences than even a so-called first offender convicted only as "drunk and disorderly." Most of us are probably convinced that no Legislature should interfere with the free play of judicial discretion, as for instance by laying down an invariable rule that all first offenders shall be placed on probation. Every one of us has had experience with first offenders who, upon investigation, have been found to have so elaborate a history of moral delinquency that to treat them as first offenders would make a travesty of justice. It was such a one who upon being asked, "How often have you been convicted before," replied proudly, "I am a first offender; I have never been convicted before." To whom the judge said, "you mean you have never been caught before."

Again without entering into a needless discussion as to the metaphysics of punishment, we must never forget that one function of the court is that of social defense against crime. Professor Albert Kocourek of Northwestern University in a well considered paper on this point, says, "The probation system is a difficult field of thought now still ruled by confused theories of the proper function of criminal justice. It is inspired no doubt by a laudable thought but historically it is entirely at variance with the legal evolution of all developed societies. * * * It tends to make a victim of the person injured in favor of the wrong-doer. * * * It seems hard to take away from this part of society this armor of protection in order to perform an experiment on its enemies. * * * We may therefore conclude that the probation principle as a visitorial expedient which leaves the offender in his normal surroundings as a productive unit of society under the direct tutelage of the State is a valuable invention provided that the probation system does not for the purpose of

reforming the offender, inflict an evil on the person injured and does not by its leniency encourage the commission of crimes."

In short, the judge must still keep in mind that whatever be the excuses in behalf of the defendant or his needs from the social humanitarian point of view, the case may still be one in which punishment must be inflicted for its deterrent, expiatory or retributive value. In some cases of this character the Legislature has given statutory recognition to this principle by forbidding probation or by peremptory enactment imposing a fixed penalty within a sliding scale. Judge Marsh has instanced such a case in citing our well-known Section 150 of the Tenement House Law. Other examples are to be found in many statutes defining *mala prohibita*, such as laws and ordinances pertaining to motor vehicles, child labor and factory safety laws.

By way of reconciling the views of those who may be unalterably opposed to the doctrine of deterrent punishment it is suggested that in appropriate cases involving turpitude, in which the law permits probation, there may be prescribed a course of probationary conduct which will automatically work out not mere milksop and often mistaken kindness but also a recognition of the fact that within the probationary purpose there inheres also a penalty. For example, restitution where possible can be enforced as a prerequisite while strict probationary oversight and the compulsion to report frequent may always be used as stern disciplinary agencies.

While laying emphasis upon these elements of the proper attitude to be assumed toward probation by the man on the bench, it is surely not amiss to point out that judicial impatience with a multiplicity of reports, forms, blanks, card systems and indices, to which indeed there seems to be no end, may be, plainly speaking, ill advised. The method of statistics has not perhaps received the recognition it merits because anyone may juggle with figures and statistics may be gathered to prove almost any proposition under the sun. But, as Mr. Koren well demonstrated in an address before an earlier conference of this Association, in such work as the Criminal Courts are doing we shall never be able to reach any definite destination, unless statistics are

carefully and methodically compiled so that the competent statistician may draw the deductions upon which future criminological science is to be upbuilt. It is precisely because in the past statistics have never been adequately or in many cases at all preserved that skeptical city and county authorities have not been impressed with the necessities of the probation system and have refused the required appropriations. In our State the State Probation Commission has sought to introduce a system of reports to fill this need but I think that generally such commissions as well as ourselves are still laboring under considerable uncertainty as to just what kind of a statistical and filing system will produce profitable and worth while material for the future scientist's study. However, while we are slowly groping our way, let no one captiously criticize even though the labor falling upon the shoulders of the probation officers as well as our own may be onerously reduplicated. We may balk at the seemingly unnecessary duplicity of work involved in having the judge indorse upon the papers all the minute details, terms and conditions of probation in each individual case especially as the probation officer's card and report will fully state the same matters, but a lawful and intelligible administration of the probation system requires that this be done.

I shall omit all special discussion of two topics, both unquestionably of the highest importance, namely: the kinds of cases in which and the kinds of persons to whom probation is to be regarded as applicable, chiefly because there now seems to be a fair degree of agreement on these subjects and I cannot add any suggestion of importance to the many admirable discussions already published and easily accessible to the student of probation. The judiciary generally are learning the caution borne of disappointment and are apparently tending to be more carefully conservative in apportioning probation to the offenders before them. Too many failures will certainly sound the doom of the whole system, especially before the bar of public opinion the support of which we need above all things in the establishment of reforms in our criminal and penal administrations. This does not mean that a too timorous conservatism shall withhold probation from even a single deserving defendant but it does mean that in case of doubt, the doubt had better be resolved against probation. Perhaps also here in New

York City there is a tendency to narrow the numbers placed upon probation because if this remedy were dealt out with too liberal a largess, our system would soon be swamped and our comparatively small force of probation officers be compelled to throw up its hands in dismay. Further the now very general acceptance of the principle that there should be no probation until after a very careful preliminary investigation or its equivalent, has still more tended to prevent the unduly great increase of probation cases. I suggest with all the emphasis I can lay upon it that this conference sanction in some way with what authority it can command, this one great principle fundamental to all probation work, namely, that no judge should place any person whatsoever upon probation until after as complete a preliminary investigation into the character, history and mental attainments of the defendant as he can have made, shall disclose that such defendant is a fit subject for probation. This principle seems so self-evident, the wonder is that there still be judges who transgress it.

There are two remaining thoughts which are however so largely for the present at least of academic value that I shall merely mention them in passing. There is first the suggestion made recently by the Committee on Adult Probation of the American Institute of Criminal Law and Criminology of which Chief Judge Wilfred Bolster of the Boston Municipal Court was chairman, contained in these words: "We strongly recommend that after successful probation the indictment or complaint shall be dismissed of record." While this may at some future time become a fruitful suggestion, it may be fairly questioned whether in New York State under the present constitution it would not be in contravention of the power to pardon reposed exclusively in the hands of the Governor of the State. But that it may be adopted at some future day as a logical capstone to our structure of probation I personally do not doubt.

The second thought which also involves some debatable and moot points is this: just how and how far shall the judge keep or be required to keep in rapport with the probationers and their progress. The almost complete withdrawal of interest and supervision on the part of the judges in and over the persons placed by them on probation, coupled with the unpleasant facts that so many of the sentences imposed, whether fines, imprisonment, suspension

or probation are founded on ill-gathered and incomplete data, are so often fearfully discrepant and anything but uniform, and the fact that after sentence has been pronounced, the very man whose fiat set the whole penal machinery in motion becomes completely severed from the case, these facts have led highly respected authorities in penology to propose that the power to sentence be taken away entirely from the courts. To the courts should be left the function of finding the defendant guilty or not guilty, of "separating the sheep from the goats." The convicted ones should then be transferred to a State or local penal commission for sentence and for periodic revision of sentence as they show progress toward reform. To me, the condition of complete estrangement of the sentencing judge from the defendant placed by him on probation is an anomalous one. A great many of our judges must unquestionably agree with me for I have found that they invariably refuse to interfere with or to revoke probation excepting in their own probation cases. Further our new New York Parole Law (Chapter 579, of the Laws of 1915) distinctly provides that judges shall remain in touch with the cases of defendants sentenced under its provisions, to the extent that indeterminate sentences shall not be determined except upon their approval and consent. With respect to the Magistrates' Courts of New York City, a remedy also has been suggested, namely, by the institution of a new functional court to be known as the Probation Court with a stationary judge therein to become an expert in and generally to supervise all probation cases.

Little need be added upon the general subject of suspension of sentence without probation, assuming that this point is included in the topic assigned to me. The authorities are now generally agreed that in cases involving moral delinquency or turpitude, suspension of sentence without probation is useless and a mere makeshift. The committee headed by Judge Bolster goes so far as to call it "vicious." Of course this means suspension of the imposition of sentence. On the other hand there may always be merit in appropriate cases in a suspension of the execution of sentence after a definite sentence has been pronounced, whether of fine or imprisonment. This is what the European penal procedure calls a "conditional sentence," namely, a sentence which is or is not to be executed conditioned upon the bad or good conduct

of the defendant. We have no true type of this kind of suspension sanctioned by New York State statute. The nearest approach in our law is the power to grant time to the defendant who has been fined to get the money to pay or as in the domestic relations cases to compel the periodic payment of money to the wife or relatives under probationary oversight. In these cases there is no real probation and the machinery of probation is used solely to assure payment.

The time limit makes it impossible for me to say anything upon the tremendous number of cases of public intoxication, disorderly conduct and vagrancy in the cities, particularly New York City, in which sentence is forthwith suspended without penalty or probation and the effects of which for good or for ill offer a fruitful topic for future analysis and study. A cure for the most obvious evils arising out of this condition, is offered in the new "indeterminate sentence and parole law," alluded to before.

HON. BENJAMIN J. SHOVE, JUSTICE, COURT OF SPECIAL SESSIONS, SYRACUSE: I wish to express my appreciation of the article read by Judge Geismar. It is full of common sense and while perhaps it is absolutely unnecessary, in view of his forceful presentation of it, I do wish to emphasize the careful distinction he makes in regard to the first offender. I think we have all become aware in the last two or three years, at least, that the idea of probation has spread. How often we get the thief and the criminal before us who begs to be placed upon probation and if represented by counsel, he also asks for it. A distinction which Judge Geismar makes is one that I think we cannot too carefully bear in mind, that is, as to the real meaning of the first offender.

I have had two such cases recently in which the one not represented by counsel immediately asked to be placed upon probation upon the ground that he was a first offender and it appeared that he had been stealing for over two years and hadn't been caught. He had stolen during that time hundreds of dollars worth of money and property and still he claimed he was a first offender and therefore entitled to be placed on probation. I tried to the best of my ability to point out the distinction of what a first offense

The second was a professional shoplifter whom we after-
discovered had jumped her bail in Philadelphia and ap-
peared in Syracuse. In the course of ten days she had stolen
of dollars' worth of fur coats and had been caught. She
with counsel and eagerly pleaded for probation and sus-
tained her sentence upon the ground she was a first offender —
had been caught before.

SECOND SESSION

Addresses at Dinner, Friday Evening, January 21, 1916

PRESIDENT APPELL: I would like to read a letter which is written to us by one whom we all hold dear and whose face we so greatly miss upon this occasion.

JANUARY 17, 1916.

HON. GEORGE C. APPELL,

PRESIDENT N. Y. STATE ASSOCIATION OF MAGISTRATES, MOUNT VERNON, N. Y.

MY DEAR JUDGE.—There was no grief within me when I declined to again be a candidate for City Judge last fall, and none was apparent upon retiring from the post with the close of the year, after sixteen years of service. But just a tinge of regret, that such things were allowed to happen strikes me as a persual of the program for the conference is made. There are found names of many of the old familiar friends with whom I have annually associated for the past half dozen years. And there too I find Mayor Mitchel, whose greatest glory to me, the son of a '48er, lies in the fact that he is the grandson of John Mitchel, of '48. And my old schoolmate, Norman J. Marsh, who has finally been lured into attendance. But who in the world ever saddled that subject upon Norm. Surely the old boyhood chums of the Utica Free Academy and Hamilton College would never expect to hear him mingling in such a discussion. And it does my eyes good to see the name of Louis Marshall, long since become famous and distinguished at the bar, whose acquaintance I made when he was in the office of Ruger, Jenney, Brooks & French at Syracuse, into which firm he soon graduated, changing its style to Jenney, Brooks & Marshall. And Job Hedges, who will say something that will please the boys mightily. And Chief Magistrate McAdoo, of whom I hold pleasant memories. And last, but not least by any means, my old friend and associate in the Legislature of 1890, Tompkins, of Rockland, now blossomed into the Honorable Arthur S. Tompkins, Justice of the Supreme Court, Ninth Judicial District. What reminiscences "Tommy" could tell you of the days when Billy Loeb was Assembly stenographer, Linn Bruce a committee clerk and Billy Grattan, of Albany, (since senator) a page boy.

Kindly pass my regards all along the line to Judges Dooley, Piper, Brady, Wilkin, Shove, Noonan, Byrne, Baker, Judge, Gillette, and the many others who have attended previous conferences, and express to all the deep regret which I feel because of inability at this time to attend the gathering.

Very sincerely yours,

JAMES K. O'CONNOR,

EX-PRESIDENT, N. Y. S. ASS'N OF MAGISTRATES.

PRESIDENT APPELL: During the past year our association has endeavored through its proper committee to procure what we deemed the most needed constitutional amendments as affecting

arts. One of the men whom our eyes centered on mostly is
maker whom I shall introduce. During the conferences of
committee and during the deliberations of the association, it
aim to secure the good will of members of the Constitu-
Convention, but none more than Louis Marshall. I intro-
w a man who is interested in our welfare, in our welfare
ers and as administrators of justice, a man who is ex-
well qualified to speak upon this topic, one of the leading
tional lawyers of this country, Mr. Louis Marshall.

PROPOSED CONSTITUTIONAL REFORMS AFFECTING THE LOWER COURTS

LOUIS MARSHALL: May it please the court! This is the
multi-headed tribunal that I have ever addressed. I have
several occasions appeared before the Court of Errors and
of New Jersey which, as you know, consists of fifteen
judges. The judges sit in two rows and it is sometimes quite
difficult for counsel to keep in touch with them. I am afraid that
it will be much more difficult for me tonight to maintain an un-
interrupted circuit with this tribunal.

The toastmaster has a proper sense of the occasion. He is
thoroughly familiar with the time-honored practice that obtains
in boxing and sparring bouts. For the purpose of entertaining the
audience, the performance is usually opened by a display of the
lightweights; then follow the heavy weights. Tonight my friend
Judge Hughes will occupy the point of vantage. So I suppose that
it is my duty to go through the preliminaries so as to put you in
the proper frame of mind,—one approaching torpor,—in order
when the proper atmosphere has been created, Job may
be done; in other words I am to prepare you for the doxology.

I am, however, really pleased to have the opportunity to address
this assemblage. Until last summer I did not know of this organi-
zation of the magistrates of the inferior criminal courts of this
State. It was brought to the attention of the members of the
Constitutional Convention soon after it convened by the industry,
perseverance and pertinacity of Judge Noonan of Buffalo. He
appeared before the Judiciary Committee, in season and out of
season, not only to indicate that there was such an organization

as yours, but also to demonstrate that it had practical ideas to present in concrete form. He also deemed it necessary to appear before the Committee on Bill of Rights to repeat his arguments and to practice his persuasive powers before it, and since I was a member of both committees, I had the pleasure of hearing him twice on the various subjects in which he sought to interest us, and had the privilege of receiving a double portion of his spirit. I desire to say now that no organization was better and more intelligently represented before the Convention than was yours.

It is really a public service that you are performing. You are not content with the perfunctory discharge of the duties of the office for which you have been selected, but you gather for the purpose of interchanging ideas and thoughts and of suggesting reforms in procedure and in substantive law which relate to the important tribunals in which you officiate. In doing so you are rendering a great service. In the course of time, as a result of practical experience, you have become experts. The great trouble in the past has been that many of our public servants have had or professed to have unique theories, more commonly known as fads. That is a misfortune. A man with a fad is certain to ride it to death. Unfortunately that is deadly for the public and not for the rider. He thrives on the opportunity for that publicity which the incumbent of a public office readily secures. He is fascinated by the magic of catch words which find their way into newspaper headlines too frequently and which often are translated into statutes which do not contribute to the public welfare. That is one of the reasons for the many bad laws that are being passed annually. That is the reason why we witness continuous and often mischievous changes in our substantive and in our adjective law. That is the reason why we have a Code of Civil Procedure which is an abomination and why our criminal law is assuming such stupendous proportions and deals with so many minertiae that, as Judge Cullen recently said, every man is apt to commit one or more crimes every day of his life without knowing it. What we need in our criminal tribunals, therefore, is the aid of experts to study, test, apply, elaborate and perfect the existing law, and, only after careful observation and reflection, to propose to the lawmaking power such useful and necessary changes as will tend to make the law more effective and more just.

very hopeful indication when a body such as this gathers from various parts of the State for conference and interchange of views. I have attended meetings of the State Bar Association and there have been present fewer members of the Bar than of the magistrates here this evening. It is also pleasing to note that in the last twenty-five years a great change has taken place in the personnel of the magistrates of this State. It is no longer necessary to elect to the magistracy a man who is commonly an important factor in politics. Ability and character are the tests most generally applied, and it is a hopeful indication that reasonable familiarity with the law is considered a requisite qualification for an incumbent of the magisterial office. I remember when I lived in Syracuse, whence comes my good, I dare not say my ancient friend, Judge Shove, at all events in that somewhat remote period when we were boys together, there sat in the Judge's court, or rather the Police Court of Syracuse, as we now call it, a man gifted though he was with common sense and in the discharge of his duties, who was absolutely devoid of legal knowledge. He was ingenious; he had original ideas; he made no Legislature to make laws; he made them as he felt the need of them. They were literally judge-made laws, and not such makeshifts as lawyer-made laws. In a word, he was equal to any emergency that might arise. One day I was called to the court for the purpose of procuring the release of a young man who was temporarily sojourning in one of the cells located in the basement of the City Hall. On inquiry I found that the Judge had directed a policeman to put the unfortunate fledgling in the cell and on that occasion, at least, there was complete confusion between the judicial and the administrative branches of the government. On further investigation I learned that this delay in judgment had been rendered because of irritating interference with the swift progress of justice. "Why," said the Judge, "this man has stood in my way for hours. He has been asking me one question after another all day long. Here is a man, one whom I am bound to punish, and he has been asking me questions." While there may have been a rough sense of justice in this attitude, just as there was among the Vigilantes in the early days of California, and while it is undoubtedly true that there are many lawyers who deserve to be sent to jail for baffling

the court or for interfering with the due administration of justice, yet there are less crude and more effective ways of attaining just results than the summary methods adopted by this well-meaning 'Squire. The same jurist (I believe that is the pet name which the newspapers apply to one whose salary is paid, or at some time has been paid, by the public) on one occasion had before him two excellent lawyers, who were engaged in a hearing of considerable importance. A very delicate question of evidence arose, determinative of the case. When the proof was offered by the prosecutor, objection was made by defendant's counsel, whereupon the prosecuting lawyer read an extract from Hawkins' Pleas of the Crown, to justify his position. This greatly pleased the old 'Squire, for it supported the view that he desired to prevail. Turning to the counsel, he exclaimed with much gusto: "T. K. who did you say says that?" "Serjeant Hawkins," was the answer. "Well," smiled the 'Squire, "then, me and Hawkins agree on that proposition." Thereupon arose the defendant's counsel with his usual suavity: "Just a moment, Your Honor, that dictum of Hawkins was overruled in the 23d of Wendell;" and he proceeded to demonstrate that such was the fact. Sadly the 'Squire turned to the prosecutor and gasped: "Well, T. K., that knocks me and you and Hawkins into a cocked hat."

While justice was done even in those days, we have now a more orderly and a better system, one which is in every way dignified and which adds to the usefulness of our magistrates' courts, which have in consequence grown in the respect of the community. Certainly the situation in the City of New York is much improved over the conditions which prevailed in the days of the old police justices who were legislated out of office in 1895, when the law was enacted under which our magistrates are now selected. The administration of the criminal law has improved immeasurably since that time, and I take it that it is associations such as yours which tend further to improve the personnel and the *esprit de corps* of our magistrates and the general disposition of the magistrates toward the public and of the public toward the magistrate.

You have assigned as my subject, "The Needed Constitutional Reforms Affecting the Lower Courts." I consider that as rather rubbing it in, when one considers that it is only a few weeks since

le of the State of New York, by a majoriy of 500,000, that there were no "needed constitutional reforms" of any they seemed to think that it would be best to let well enough and I am now, to some extent, of that opinion, for when we have spoken so vociferously, so effectively and so convincingly as they did in November, a man cannot really be a republican or in a democratic form of government, not take the hint. We will probably not have another Constitutional Convention in a hurry. If we do, it will not be on the lines pursued by the late departed, which seemed to be the theory that it was politic to afford to every member the opportunity to kick some person or some thing or something, not only in single but in double harness, in squads and platoons, and under circumstances which would make it likely to contribute to the destruction not only of that which might have been objectionable, but likewise of that which was good, because the many things that were undoubtedly good and together with those changes that some may have thought to be objectionable.

It seems, however, that it is the idea of this Association that, in view of the fact that the work of the Constitutional Convention was a disaster, the days of constitutional reform are after all numbered, and that the present instrument of government, though an excellent one, may still be improved, and particularly as it relates to the administration of justice. I certainly believe that the proposed Constitution contained a large number of valuable provisions, some of which in due time by a slow and steady process in the course of natural evolution can be improved by making radical changes all at one time will be adopted.

Especially enough, I have taken special interest in several of the questions which very much concern and interest the magistrates of the State and notwithstanding the decision rendered at the meeting of November, I still harbor the hope that another appeal to the people (for we lawyers always like to appeal) may result in reversing the adverse judgment in so far as it applies to those questions which concern our inferior criminal courts, which, to my mind, are of the utmost importance. Due regard must be taken

by the people of those tribunals which more closely affect them than any other of our courts. It is the inferior courts, both of criminal and civil jurisdiction, which after all more directly concern the average man in every community than do the higher courts. It is the determination of small offenses, the misdemeanors, the violations of ordinances, of problems relating to the juvenile delinquent, to the misdemeanor, of those which relate to the small controversies between citizens, and which in the aggregate affect more of the people of the State than do the larger controversies, which in the long run measure the public estimate of our judicial system. How many men in the State have ever had a case passed upon by the Court of Appeals or by the Appellate Division, or even by a trial term of the Supreme Court, but who has not at some time or other either appeared in the justice's or magistrate's court as litigant or witness? In fact, the entire public, even though a large percentage of it never comes into those courts, is nevertheless influenced by their attitude toward such litigants as appear before them. For it is a truism that the opinion of the public with respect to the government, of the courts and the administration of justice of any community or State is made up of the sum total of the opinions formed by individual citizens with regard to those departments of government with which they come into contact.

The proposition which was presented to the Convention by Judge Noonan, the adoption of which in somewhat modified form was recommended by the Committee on the Bill of Rights, of which I had the honor to be the chairman, and which was adopted by the Convention, is one which relates to the large class of cases where persons accused are brought before a magistrate charged with crimes of an apparently serious character, but which in reality are often trivial, but which, because of existing constitutional provisions, must be so dealt with as to result in the incarceration of the accused for protracted periods of time before a trial can be had. This often occasions serious hardships to the accused and great inconvenience and expense to the public. Everybody knows that when a policeman makes a charge he is naturally apt to magnify the offense, and everybody knows that when any injury is done to an individual he considers the person who has

it as an offender of such depravity that at first blush the punishment that would fit the crime would be immediate and by boiling the miscreant in oil, or by some similar method. Consequently, we all know that when an ordinary assault and battery takes place, the defendant is charged with intent to kill; or if property of small value is stolen the charge made is of grand larceny. When, therefore, these cases are presented to the magistrate he is bound to take cognizance of the charge as presented in the complaint, and has, therefore, no alternative, but to hold the person accused for the crime charged, and to find that there is a probable case for action by the grand jury. The grand jury frequently does not sit, especially in the remote parts of the State, for weeks and weeks after the crime has been committed or the prisoner has been remanded. Grave wrongs follow. We had our attention called to the case of a fellow in Wyoming county who was charged with a crime the reality was of a very trivial character. The total amount of property injury done was about \$1.50, but the charge made against him was of a felony. It happened that no grand jury sat in Wyoming county for five months after the commitment, and for five months the wheels of justice remained idle. The prisoner could not get bail, and therefore had to remain in jail awaiting the sitting of the grand jury. When the case finally came before the grand jury, a suspension of sentence followed. Such occurrences constitute wrongs to the prisoners and wrongs to the community. They are the expense of government, not merely in isolated cases, but as of this character happen over and over again. Nor do they merely occur in up-State counties. There are experiences of this character in New York City, and frequent experiences. The city of New York is constantly filled with prisoners awaiting indictment. In many of the cases there eventually occurs a suspension of sentence or the prisoner is put upon probation, or no punishment is inflicted. The immediate result of the present procedure has been in a multitude of instances to work the destruction of the earning capacity of the man arrested and the needless expense upon the public. You all know, the Constitution now requires that in such cases indictment by a grand jury and trial by petit jury must

precede any disposition of such cases. I am probably carrying coals to Newcastle in referring to this, but I nevertheless deem it wise to dwell on this point because I wish to indicate how unjust and how ill-considered was the action which resulted in voting down the amendment which sought to rectify this abuse. I conceive that this was probably due to the fact that the electors were not given an opportunity to vote upon the amendment as a separate proposition. The Convention decided that any person may, in the manner prescribed by law after examination or commitment by a magistrate, waive indictment and trial by jury on a charge of felony punishable by not exceeding five years imprisonment, or of an indictable misdemeanor, all subsequent proceedings being had by information before a superior court of criminal jurisdiction or a judge or justice thereof. The idea underlying this amendment was that while many magistrates are entirely competent to deal with such cases, to try them, to render a just judgment in them, it was none the less important to bear in mind that all magistrates are not equally qualified, and that where it was possible to inflict five years' imprisonment in a case coming within the scope of the amendment, it was safer as a general proposition for the magistrate after the prisoner had waived indictment and trial by jury to relegate the case to a judge of a superior criminal court for trial and the imposition of such punishment as the facts justified.

One would suppose that such a provision as this would encounter no opposition. In fact, Magistrate Noonan made it so clear to us that both committees were unanimous in the belief that such a provision should be inserted in the Constitution, but lo and behold, when the people came to vote upon this subject, a public-spirited citizen of New York spent a hundred thousand dollars in publishing broadcast over the whole State advertisements covering whole pages of the daily newspapers, in which, among other things, it was declared that this provision had been inserted in the Constitution in order to enable the criminal rich to crawl out of a tight box if they ever got into one. In other words, that if a malefactor of great wealth should become a member of a trust or should commit a serious offense, he might go before a magistrate, waive indictment, waive trial by jury, and then proceed on his way rejoicing before some favorite judge and escape scot free.

did that a judge of the Court of Appeals of this State had said that this was the very milk in the cocoanut. Now, if the learned judge had gone to any one of your number, to any man given thought to the subject, to any expert in the procedure of our inferior criminal courts, he would have learned at once how utterly unfounded his contention was. He would have learned that the amendment was not intended to help the millionaire, but to bring relief to the poor and the friendless, the families of wage-earners, to the common people. The idea that a millionaire could profit by such a law, or would undertake to avail himself of its provisions, seems grotesque.

Let me give you an instance this for the purpose of indicating how ill-considered opposition sometimes is to beneficent measures which are well understood. Against the expenditure of a hundred thousand dollars for these lurid, sensational and spectacular advertisements, what could the poor members of the Constitutional Convention do? They were nowhere. And what could the magistrates do? Nobody listened to them. The voice of the advertising columns in the newspapers was much more potent than the reasoning of Magistrate

any other provision which we sought to introduce into the Constitution which was likewise advocated by this Association and by those who co-operated with it, related to the children's courts and the courts of domestic relations—both of them tribunals which intimately concern the people and their welfare. There has been no greater or better reform instituted in our jurisprudence than that of the establishment of children's courts and domestic courts. Before these tribunals were organized, young boys and girls who had no criminal instincts, but who nevertheless succumbed to getting into trouble through some boyish prank or misadventure whose acts were no different than those committed over and over again in their boyhood by men now occupying the highest positions in the land, or by those now sitting in our legislatures, were brought into court as though they were the most debased and degraded. They would be arraigned in company with prostitutes and lewd men, of men and women of the vilest characters. They were compelled to listen to the most offensive and horrible

stories of depravity. They would become familiarized with crimes of which they had never dreamed, and of which they might not otherwise have ever heard. As a consequence it frequently happened that our very courts, in attempting to administer justice, brought degradation and contamination to the unfortunate children whom they were seeking to discipline, and lowered their moral tone. A good man after many years recognized that after all these juvenile offenses, even though they literally constituted crimes and occasionally of such seriousness as to amount to felonies, did not necessarily proceed from a criminal disposition, and were not to be measured by the same rule or the same standard as applied to similar acts when committed by an adult. This good man concluded that these children should be dealt with in a manner entirely different from that by which the adult was to be judged. In course of time this idea took root, and resulted in the establishment of children's courts. Subsequently, it was further developed so as to lead to the organization of domestic relations courts, where the disagreements between husband and wife, often of a character capable of easy adjustment by a wise magistrate, could be determined. Instead of requiring marital couples to come with their grievances into a court in which criminals are tried or investigated, they were enabled to come into a tribunal where, by means of a wise exercise of judgment, peace, harmony and reconciliation may be brought about.

The difficulty, as you all know, with these courts, both the children's court and the domestic relations court, now is, and will continue to be until a proper amendment to the Constitution is adopted, that they will not be able to accomplish the beneficent purposes for which they are designed to the utmost extent of effectiveness. In passing on the cases with which they are called upon to deal, it is frequently desirable that the magistrate shall be enabled to exercise equity powers; otherwise he can treat the questions which come before him relative to children and warring members of the matrimonial class to a partial extent only. Were he, however, empowered to exercise the discretion which is now vested in a court of chancery, if his powers were enlarged so that he may do exact justice as called for in each particular case as it arises, in accordance with its special circumstances, instead of

und by rigid rules of law which oblige him either to con-
y imprisonment or by fine, or to dismiss the proceeding,
y better results could be obtained than at present. The
te would not only be enabled to temper justice with
out in his decision he could consider the future as well as
ent; he could deal with the guardianship of the child; he
range for a permanent and not merely a temporary adjust-
between the husband and wife. He could prevent all future
and avoid the recurrence of the difficulties which have
them into his tribunal, where they have come to air their
fancied grievances.

present Constitution provides that the inferior courts shall
cise equity jurisdiction. Equity jurisdiction is reserved
superior courts, particularly to the Supreme Court, which
eservoir of equity powers and equity jurisdiction. Even
rts as the City Court and the County Court, except in
designated classes of cases, cannot exercise this equity

This is probably wise in so far as civil causes are con-
but as a result of practical observation it may be said
want of equity powers in inferior criminal courts with
ou are concerned, in so far as they deal with the juvenile
ent and with matrimonial controversies, constitutes a

It was the effort of the Constitutional Convention to
the rescue, so far as children's courts and domestic
s courts were concerned, by making an exception with
to the exercise of equity jurisdiction by inferior local
by giving the power to the children's court and the
relations court to deal in an equitable manner with cases
before these courts. I know that the old-fashioned lawyers
had an idea that it is a shocking thing to lose sight of the
demarcation between law and equity powers. The late
Judge Ruger, with whom I was associated when first
d, was fond of narrating the experience of his father
after the Constitution of 1846 made of the Supreme
court of law and equity and permitted it to exercise both
The elder Ruger was an old-fashioned common law lawyer,
ld not conceive how law and equity could be commingled.
occasion he appeared before Judge Gridley at Utica to

argue an important case. In the course of his argument the Judge interrupted him: "But, Mr. Ruger, what have you to say about the equities of this case?" Thereupon the old common law lawyer stood completely aghast and raising his arms in astonishment exclaimed in tragic tones: "Your Honor, this equity principle is a very dangerous principle, Sir." His idea, which prevailed for centuries, apparently underlies the provision of the present Constitution which relates to inferior courts. While I can readily admit that equity powers must not be generally exercised, because, like a gun, though exceedingly useful at times, in the wrong hands they may carry destruction; but so far as questions relating to children and husband and wife are concerned, the proper dealing with which involves the exercise of common sense and not so much the application of formal rules of law, I am satisfied that there is no tribunal which can more wisely, effectively and expeditiously deal with them than an intelligent magistrate's court. I even doubt whether the Supreme Court itself would be as efficient.

I have now indicated the two respects in which the Constitution needs reform. In spite of the adverse verdict which has been thus far rendered upon them, in consequence of the wholesale rejection of the work of the Constitutional Convention, I am willing to say to you, gentlemen, that I shall continue to agitate for the adoption of these reforms. I am enlisted for the war. I have never shrank from battle, although relegated to the light weight class. The oftener I am defeated the more I desire to fight. I shall therefore be ready to join hands with you in the effort to bring about the adoption of these constitutional amendments whenever you say the word.

There is nothing more that I need to add. It is unwise to attempt too much now. You have two excellent propositions for which to contend. Do not try more, because otherwise you may fail altogether. Therefore do not seek to insert a clause in the Constitution making of your courts constitutional tribunals in the expectation that you may thereby prevent possible interference with you by the Legislature. It is entirely within your own power to prevent such interference. A good magistrate never need fear hostile action on the part of the Legislature.

were the Legislature inclined to disturb him, the public prevent it. We have had since 1895 the present system of judges' courts in New York City. It has encountered no difficulties. In fact the Legislature of 1915, by chapter 531, strengthened the inferior local courts of the metropolis. Important changes and improvements have been made in the adaptation of the criminal law in these courts, thus adding importance and dignity to them. The general tendency of the people is to stand by their courts when they deserve to be upheld. When they are not deserving of it, they are swift to recognize it. So do not worry about your tenure of office, nor concern yourselves whether you are kept out of or put into the Court. All that you need to consider is, whether you possess the authority to do justice efficiently. If you accomplish what you will have accomplished all that an organization such as this is called upon to do, and you will gain the respect and the approval of the people.

IDENT APPELL: Our next speaker is a Justice of the Supreme Court, and while I am sure we have every reverence and due deference to the high office he holds, an office which none of us who are lawyers aspires to, nevertheless, frankness compels me to state that those of us who take our work seriously regard it as almost an equivalent, with regard to the general welfare, to the work which he himself does. We should administer the functions of our office properly, wisely and well for in it we show good citizenship, probably in a degree above any other judicial or otherwise. The first insight of the law or of government in this country is gained in our courts by the class of people who are usually brought before them. By the proper handling of each case we instill some degree of reverence for our office. However, we do bow down in reverence to the Supreme

We are about to be addressed by a gentleman who possibly has given the answer to that famous quotation of Mr. Justice Brandeis of the Federal Supreme Court, who said once upon a time, "Justice cannot be administered by finite man." I want you to listen to a man who comes pretty near living up to that ideal. Justice Tompkins.

THE JUDGE AND THE PEOPLE.

HON. ARTHUR S. TOMPKINS, JUSTICE, SUPREME COURT, NINTH JUDICIAL DISTRICT: I thought the toastmaster was going to say that the next speaker came as near like being the criminals that you have to deal with as anyone he ever met. I must be the middle weight. I am going to make way very soon for the heavy weight.

A new State official visiting for the first time one of the State prisons was unexpectedly asked to address the convicts and never having done that before, being a little embarrassed and not knowing just how to begin his address, he addressed them as, "Fellow Citizens," and then it occurred to him that wasn't just right and he started again and said, "Fellow Convicts." Then he was sure that wasn't right and in dismay and embarrassment he exclaimed, "Well, I am glad to see so many of you here to-day." I am glad to see so many of my brother judges here to-night.

It is my opinion, derived from several years' experience on the bench as police justice, as surrogate and county judge and Supreme Court judge, that no class or group of public officials command so much respect and have such a strong hold on the confidence of the masses as our judicial officers. One evidence of this respect and confidence is found in the fact that more men who hold judicial office are re-elected and re-appointed to their positions than any other class of public servants. The non-partisan idea is applied more frequently to the judiciary than to any other branch of our government. It has come to be the common belief that a good judge ought to be kept in office regardless of his politics and the fact that so many judges are retained in office term after term, and oftentimes until they are disqualified by the age limit, while presidents and governors, mayors, legislators and other officers come and go, as political conditions change, is very good proof of public faith and confidence in the judiciary.

The masses have faith in and respect for our judicial system. With the hundreds of thousands of cases that are tried, civil and criminal, in our courts every day, in every one of which one party or the other is unsuccessful and disappointed and oftentimes sorely grieved and put to much expense, yet in the great

y of cases — I think in more than ninety per cent of the
ied in all of our courts, from the lowest to the highest,
sions are accepted as final. No appeal is taken, and there
aratively little fault finding or criticism, and the defeated
n most instances if he had a claim against another would
tate to go back the next day into the same court and before
e judge with confidence that his case would be fairly
nd impartially determined.

urse it goes without saying that we judges ought to jus-
t confidence and win for ourselves and our courts even
respect by doing our work so well and conducting our
o circumspectly, so fairly, and by every judicial act, dem-
ng our fairness and impartiality so thoroughly as to im-
pon all men and all classes the independence, purity and
ness of the judiciary. I think sometimes that we are too
e to criticism, too intolerant of criticism. Fair criti-
the judges and the courts is not to be deprecated. I think
t is to be welcomed as a stimulus to better service. There
stification for the notion that judges and courts are above
ht to be exempt from criticism. We are the servants of
lic and as such we are justly subject to the critical
nt of our masters, and we ought not to resent it or chafe
t, unless it is of such a character as to impugn our motives
ion our integrity, and that kind of criticism, harsh and
criticism of the judiciary, is indeed a rare thing. Deep
the American heart there is genuine respect for the judi-
nd gratitude to the courts for what they have done during
history and what they are doing for the safety of our
ons, the preservation of individual and property rights,
maintenance of peace and good order in our respective
ities.

tinguished statesman in the early history of our country
t in the future of the Republic we might encounter dan-
situations and difficult questions, but with the principles
ned in the Constitution and the check upon hasty and ill
ed legislation and upon executive action by the courts,
ould be found sufficient protection of personal rights and

the safety of the State. And so it has always been in every difficult and dangerous situation, in every great crisis, in every conflict between federal and state authorities, in every quarrel between the state and corporations in every dispute between capital and labor, in every controversy between individuals, in all things within the power and jurisdiction of our judicial tribunals, the courts, when called upon, have been sufficient for the prompt, impartial and effective administration of law and equity and the protection of individual and property rights.

Ours is the most important branch of the public service. The judiciary is the vital force in the government of the State. The legislative and executive branches of the government make the law, but to us judges, to our courts, is entrusted what is more important, the interpretation and construction and application and enforcement of the law. The courts are the check; the judiciary is the check and balance upon the other departments of the government, to hold them steady and keep them firm in the path that has led our country to its present greatness and glory, to keep the other departments of the government true to American ideals and the fundamental law.

We may set at naught the enactment of the legislature if it contravenes the organic law; we may nullify the order of the executive if made without authority; we may invalidate the decree of a state commission; we can revise and set aside the proceedings of the county, the state, the town, the village, the city government. All this vast power was given to the judiciary by the people themselves for their own protection and in order that the fundamental personal and property rights of men might be safeguarded and preserved. So great is the power of the courts, so unlimited their scope, so far reaching the effects of their decrees, that we who are charged with the enforcement of the law, we, to whom these powers are given, we whose function it is to exercise these vast powers, should be ever mindful of our obligations and our responsibilities and strive to the utmost of our capacity to justify in the minds of all men our system of government, and the law under which we live and work; not by trying to please everyone who comes into our court; not by endeavoring to please all men or any set of men; not by sacrificing principle for temporary popularity; not by surrendering a conviction of right to

the demand of an irresponsible or impulsive or emotional it may be even at the time representing the sentiment of popularity; though it is easy to do these things, it is easy to long, it is easy for the judges to do the popular thing, to lend their ears to the ground, to know what the people like and what it brings no credit to the judiciary; it only weakens the judicial system and destroys confidence. The best thing to do in our calling and to strengthen the judiciary and increase its respect and confidence, is to do the right thing and the just thing, without regard of consequences, no matter what any one may say or do about our act.

When we administer the criminal law principally to punish criminals and protect society against the acts of criminals, let us not neglect our duty to the offenders themselves. You know the old theory was that the man should be imprisoned first to punish him, next to protect society, and third to set an example for others doing similar offenses, with no thought of the offender himself. But the new theory includes another element and a very important one, that of saving or re-making, if possible, the offender under himself. The finest service we judges can render to the state and mankind, is the reclamation of the offender. It can be done and it is being done through the splendid instrumentalities which have recently been created — the children's court, the domestic relations court, the women's court, the night court, the use of probation system, the suspension of sentence, by means of which thousands and thousands of young and first offenders are saved to themselves, their families and society.

We may do much good by an improvement in our court methods, in our treatment of people who have to come to court as parties, attorneys, jurors and witnesses. I detest the rough methods and harsh treatment that we sometimes see and hear in some of our courts. I believe that by courtesy and kindness, by a show of sympathy, by a proper regard for the feelings and sensibilities of people who have to come to court, we can add very much to the respect and confidence which the people have for and in us, and we shall accomplish much better results. And how easy it is for officers and clerks and judges to speak in kind tones to the unfortunates who come before us; to treat them as men; show that we have hearts; show that we

sympathize with them. I don't believe in this lecturing prisoners when sentenced is pronounced. I think it is bad enough for a man to have to take his sentence without having to stand there and have his past history revealed and be upbraided and scolded by the judge. I don't see any profit or sense in it and I make my own sentences just as short as possible. If there is any special reason for imposing a heavy sentence, I state it, but very, very seldom.

The important thing, brother judges, is, in all that we do and the manner of doing it and in all that we say and the manner of saying it to emphasize the fact that all are equal before the law; that everyone has an equal opportunity in our courts; that there is but one law for the rich and the poor alike, the high and the low, and all classes and conditions; that the law plays no favorites, and that no one is so great or powerful as not to be amenable to its provisions and its processes, and no one so poor or humble or weak as not to be entitled to its protection and its care.

Let us judges, in conclusion, be faithful in the discharge of our duties, so steadfast in our attachment to the eternal principles of justice and right. Let us maintain the highest standards of our profession, those of us who are lawyers of the judiciary of which we are a part; let us by every act and word emphasize the fact that there is one thing, at least, in the State above the power of money to buy and beyond the reach of corrupt influences to control, one thing that political organizations cannot dictate or any power coerce, of friendship sway,—that is, the administration of law by our courts. Thus shall we do our part toward having and deserving the good-will, the esteem, the confidence and the respect of all classes.

THE PEOPLE AND THE JUDGE.

HON. JOB E. HEDGES: It is no mere postprandial conventionality for me to say that I appreciate the invitation which brings me here. From what has been said it would appear that nearly everything on the subject of the judiciary and the laity has been touched upon. I think of nothing that has been overlooked and seek, therefore, to approach the subject of my toast merely from a different angle and furnish one or two suggestions.

At the Constitutional Convention it is clear that the results of operation were headed toward non-acceptance as a matter of policy. Few read the proposed constitution and there was conscious demand for a revised constitution in the minds of people generally. The fact is that the two leading parties sought support at the polls at the two preceding elections on the theory that each would gain an advantage by asking for a constitutional convention before the time when it came in the ordinary course of events. That is, the parties contended that there was a demand for a constitutional convention before the people had become conscious of that very demand. Further interest was lost because there was no systematic propaganda from the Convention explaining to the people from day to day what the demand for the changes was. What they saw principally was a number of distinguished gentlemen contending in discussion for the use of phrases of governmental change without themselves being aware of present conditions or the desirability of new conditions compared therewith. It resulted naturally that while the constitutional delegates toiled long, hard, and conscientiously to bring about fundamental, desirable changes in the Constitution, the Convention was never visualized properly to the public. The results of the Convention's deliberations, whether wise or unwise, found no lodgment in the waiting mind which aroused intense interest as to the great questions involved or a sufficient interest in the subject generally to result in a general discussion of what ought to be accomplished.

There are two kinds of minds, one is the affirmative and the other is antagonistic. As Mr. Marshall truly says, you can arouse a campaign with a catch phrase. That phrase may provoke a discussion to result in the passage of a statute which leaves the public without thought in public opinion as to its consequences. On the other hand it is very difficult to establish an affirmative argument unless you first lead the majority to a full understanding of the necessity of a change and then that the proposed change will bring about the needed reform. It is possible for people to so hurry through a reform that when they arrive at its consummation they have no breath to describe accurately what they sought.

As distinguished as you gentlemen are, I outrank you in one

particular. I resigned the position of City Magistrate. That resignation was not from a lack of appreciation of the work, which was very attractive, but because I had not the courage to face the establishment of a practice at the end of a term of ten years when I felt sure that I would not be reappointed. I preferred therefore to have my struggle to establish a practice come at a time when I was physically better able to undertake it.

The public mind visualizes conditions frequently from the words continually used in speech and print; for instance the public considers "Inferior Criminal Courts" inferior because they are so classed. I believe that should these courts be called, for instance, "Courts of Original Criminal Jurisdiction" it would add to their dignity. At present it is like the phrase "Direct Primaries," which, as a phrase, is ideal, and its discussion resulted in a great statutory change of policy. As a matter of fact the practice is neither direct nor primary. It is secondary and indirect.

I chose the topic, "The People and the Judge" rather than "The Judge and the People" because Judge Tompkins had selected the latter. For Judge Tompkins I have high respect. I do not follow the Chairman, however, when he pronounces the judge almost perfect. Should the judge approach perfection he would doubtless be called by his Heavenly Father. Should Judge Tompkins ever think, and I doubt if he will, that he is almost perfect, his usefulness will decrease. We cannot afford to have that usefulness diminish. I believe him a very desirable public servant. He adorns the bench, seeks to administer real justice, and I sincerely hope that he will be continued for many years of usefulness.

What Judge Tompkins said about judges, juries and defendants seems to me entirely true. I do not think, however, that the people believe in judges as fully as Judge Tompkins expressed it. I do believe that the people generally have a high respect for the judicial system and look up to it. In most cases I think they take the judges as a matter of course. The people look on the judicial system as a finality where they are to obtain justice as a matter of principal. They hope that the judges will be the instruments in obtaining that justice.

judge is a success, whatever his degree of learning, without all temperament. In addition to their own knowledge the law on the subject involved is or should be furnished them by the briefs of the contending parties. Their duty remains thereafter guiding the character of the evidence through objection and exception, to the jury's finding, to arrive at a judicial conclusion from the briefs presented and the law as discovered by the reasoning of those briefs. The manner of conducting that trial has a bearing upon inducing the litigants to accept its results gracefully, quite as influential as the actual conclusions of the judge.

There are men who would rather be sentenced by some judges than have sentence suspended by others. A suspended sentence takes the form of an unwarranted insult never wiped from the memory, while a sentence may be imposed in such a manner that the defendant really feels that justice has been done. Many of the criticisms of the judicial system are received by the people through reading the newspapers which report the judge rather than the judicial act. Could everyone read or hear from a judge what he has heard from Judge Tompkins to-night there would be a very different opinion of the bench.

It is a full appreciation of the engrossing nature of the duties of judges, and entirely understanding the demands upon their time, that has always seemed to me that the various responsible classes of the community the men who contribute least to the public, outside of the activities that make their living, are the judges.

The men who furnish the fewest suggestions regarding fundamental propositions of government and the administration of justice are the judges themselves. In a measure this arises, indeed, from the nature of their duties. It is due also to their isolation from other public activities. In a way they become recluses. They are continuously working along lines of law which settle judicially the rights between people and people. It is readily understandable that judges should not participate, we will say, in party political activities. They should, however, and should, in my judgment, be potential in discussing those great big problems of government which are not the average citizen and which citizen would readily respond

to the thoughts of a judge representing a system up to which he is trained to look.

Mr. Marshall says truly that we must have expert thinkers in working out various public problems. This is true and yet the most nerve-irritating man to me is an expert who proclaims finality of wisdom. As a rule an expert is a man who has come to a conclusion by a line of reasoning so intricate that it is impossible to be followed by another and the expert's judgment is adopted for that reason. It resembles in a way professional efficiency and efficiency in every-day language is the manner in which another man would conduct your business at your expense if you would permit him. Uplift is the attitude of mind which you desire another man to have toward you while you may be insisting on living as you choose.

The men who really solve problems are the ones who are not certain of the finality of their judgment but who do the best they can in meeting the problems of life and without losing that human touch which really is what finally persuades. The judge without a heart may sentence a defendant. His advice for the reclaiming of the defendant has no value. Laymen with fewer opportunities to judge than lawyers are not as well qualified to help select judges. Lawyers who are better qualified do not follow frankly their own opinion in the selections. The result is it is left to the political systems to select candidates for judgeships and executive office with such information as may emanate from the contest between ambitions. Lawyers frequently are afraid to express themselves regarding either candidates for judicial position or judges themselves, lest their clients may believe they are not in accord with the bench. Practically it is dangerous for a trial lawyer to personally know with social intimacy the judge before whom his case is being tried. If the judge is over conscientious he leans backward to the disadvantage of the lawyer. If he is not conscientious the lawyer is in an equally dangerous position from the record established.

It must be easier to write a judicial decision so far as mere logic goes in a manner that will appeal to a trained mind such as that of a lawyer than it is of course to write one intelligible to the layman, and practically opinions are written for lawyers

ant study they are in working out other cases. Still
be accomplished in affecting the attitude of the public
bench if decisions were not too technical in their

een much struck with the average comment in every-
ion on public matters. Some months since in journey-
also to attend a meeting of the Bar Association I sat
ing compartment of the car and overheard half a dozen
en discussing what the government should and should
its direct effect on business. One argued that the
was oppressing business. Another argued that the
should regulate business more than it was doing.
at government should not try to standardize all human
nd leave no room for the growing qualities of mind
ality. Innocently I inquired, "Who are the Govern-
The conversation suddenly stopped. No one really
know and no one had apparently thought of the indi-
onsibility for men in legislative position.

ent is not merely the people in office. They are the
visible expression of the people's desire. The real
is the people who give them this temporary tenure of
American problem to-day is to make the average mind
own individual every-day problems and at the same time
a those great fundamental principles on which are
e structure of the government. This is the problem of
at large. It is the problem of the bench, of the bar, of
of the legislature, the executive and every individual.
al that when a man is elevated to the bench or assumes
position that he should unconsciously differentiate
m his fellows. He is restricted in his associations. If
xecutive his ambitions are catered to or his timidity
n. If he is a judge he is constantly told that the chief
of the Supreme Court awaits him. Frequently the
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nowise remarkable that men in public office and
positions so soon lose their perspective which is dis-
e very men who placed them in their position. On the

other hand the reward in public esteem is great indeed for the man who could occupy a responsible position, keep a level head and normal heart and maintain comfortable relations with his fellow men. People cannot be divided practically between those in officialdom and those not. It is not practical except for academic persons to divide the people between the man on the bench and those in front of him.

There seems to be an inconsistency in many of the propositions of the court room. The proposition that the defendant is innocent until proven guilty is clear and yet the staging of the court room is of itself a disadvantage to the defendant. In a court dedicated to the trial exclusively of criminal cases the very atmosphere is against the man on trial. The only agency that can assure a fair trial to a man presumed innocent until proven guilty with conditions against him is the judge on the bench, and unless that judge has both judgment and nerve a fundamental right is often denied.

The average American to-day is theoretically a leader and practically a follower. This is not said in disparagement of the American man. It means that in the long run the average man is not fully informed of the details of the problems and waits for some one to tell him what he thinks he is thinking about. In other words, the usual question is, "What do you think of what Mr. So-and-So says" rather than, "Do you think that what Mr. So-and-So says is sound." Therefore psychologically the connecting link between the attitude of mind of the public toward the bench is very apt to be what the public thinks of the man on the bench.

When the public believes an abuse has been committed it is apt to rush, in its desire to destroy that abuse, to lengths which defeat the original purpose sought. Some years ago in the city it happened a woman had bought a sewing machine on conditional bill of sale and defaulted in one of the later payments. The marshal who took the machine was necessarily aggressive and brusque. Coming to the ear of a reporter, newspaper agitation was started and a bill was submitted to the Legislature doing away with bills of sale and chattel mortgages. Had this been carried out it would have deprived thousands of women of a livelihood who could only get machines on the instalment plan.

For judges in their interpretations of law we all should have great charity. Drafted as laws are, usually hastily, following an

agitation, the result is inaccuracy and incompleteness. Then the term "judge-made law" means that the public mind has shifted the responsibility from all that went before to the judge who is interpreting the law and who has been placed at great disadvantage from the careless drawing of the statute.

In the hurry of reporting readers frequently obtain an entirely erroneous impression of the facts of a case. As a magistrate I was threatened with impeachment by one of the local papers from a remark made in court. It happened that a young man twenty-three or four years old, who had never worked, who had a constitutional objection to the application of physical endeavor toward support, had permitted his mother and sisters by sewing and economy to furnish him with provender and logic. He was brought before me on the complaint of his mother whom he had struck while drunk and called his sister a vile name. My duty was clear but my feelings were aroused. Said I to the defendant, "The only thing I can do with you is to hold you for the grand jury, but if I could follow my individual desires I would place you alone in a room downstairs with a policeman and a night stick, that you might be properly punished." My impeachment was asked by a newspaper because of the language used to a free citizen, no mention having been made of the circumstances which provoked it.

Things remain as they are, both on the bench and before it, because the public apparently has such confidence in our fundamental laws and prosperity that they take them for granted without keeping them under entire and ceaseless supervision. As we increase in numbers we naturally lose the sense of responsibility. A crowd never takes the initiative. The first thought starts with an individual. It gathers momentum from transmission and discussion until sufficient people become interested to result in what we call a public agitation. To-day our thoughts are engrossed with preparedness and unpreparedness. So far as this country is concerned, the war has brought about a nervous condition in the public mind which seems to preclude calmness in the discussion of any topic. It may be years before this nation can apply itself calmly to the discussion of any natural, normal topic on governmental affairs. With our own agitations of the past decade,

and our viewing of the war in Europe how are men of intelligence and capacity to keep that delicate adjustment of mental machinery so that every man shall continue to be a potential part of the thinking process of the nation.

I know of no set or sets of men who can or should or may be more influential in provoking sound thinking than the bench and the bar. Cooperation between these two classes directed steadily toward a given topic will do much toward bringing about stable and consistent thinking by the public at large. It is for just such a condition that I make my informal appeal to-night. So I say to you gentlemen on the bench that there is no law or constitutional enactment in my judgment which can be substituted for normal, well balanced judges, whose minds act equitably, concisely and justly and who, at the same time, have not forgotten their relationship, humanly speaking, to their fellow man.

THIRD SESSION

Saturday Morning, January 22, 1916

PRESIDENT APPELL: Prior to taking up the assigned topic for the morning, I would like to appoint two committees: First, the Committee on Resolutions. I will ask Judge Noonan of Buffalo to act as chairman with Judge Leach of New York and Judge Hoyt of Beacon. Committee on Nominations: Judge Piper of Niagara Falls, Judge Brady of Albany, and Judge Barker of Peekskill. The Committees will kindly report this afternoon at the closing session.

THE RELATION OF THE JUDGE TO THE POLICE AUTHORITIES.

HON. WILLIAM McADOO, CHIEF CITY MAGISTRATE, NEW YORK: I want to thank you for coming to New York. It would probably be more convenient geographically to hold the conventions in the neighborhood of the Capitol. I am sorry for one thing, that you didn't give yourselves at least one day and one night to look over the courts in this city. I am quite sure we could learn a lot from you and it is entirely possible that you might find it advantageous to see how the courts are conducted in this immense community. We will be glad to have your advice and any suggestions you may make after you have seen them. The only person that I sincerely dislike is the superior person, the man who knows it all, and especially that type said to exist here in New York: the superior New Yorker who goes to smaller communities with a patronizing air, carrying that hallmark of obvious superiority. I dislike superior persons because you cannot teach them anything. I am making no conventional remark when I say we would be glad indeed to have your criticisms. I came from across the river myself many years ago. When I was admitted to the Bar I had learned what little of the fundamental principles of the law I know over there and I found there were some so-called constructions of law prevailing here that we never heard of across the Hudson. For instance, when I was Police Commissioner there was a rule or law prevailing with some of the magistrates that you couldn't issue a warrant upon the

complaint of one police officer, because he had to be corroborated. The theory apparently was that all police officers were liars. Then, there was another rule that prevailed that you could not convict any man for violating certain laws on circumstantial evidence. When it came to questions involving cases say of disorderly houses, you would have to have stronger evidence. What the neighbors said about the disorderly house wasn't of any importance, whereas if you opened a disorderly house in New Jersey the grand jury indicted solely upon the reputation of the place. Those things have been lived down and I have no doubt would appear strange to lawyers like you gentlemen coming from the upper part of the State. It was harder to convict a man as a common gambler than on a charge of the highest felony.

Upon this subject of the morning's talk, "The Relationship of the Magistrate and the Police," I speak with some experience, having been a police commissioner of this city for two years, and now having been in this office for nearly five years, I have had very unusual opportunities of looking at it from all sides. For a great many years the police and the magistrates in this great city were, if not antagonistic, certainly critical and unfriendly one to the other. How that grew up, I don't know. But it was the custom some years ago for the magistrates to criticize the police as a body, to berate them individually from the bench and, in some cases, where the magistrate made up his mind to either discharge or acquit, he placed the burden of the miscarriage of justice solely upon the police officer; it was all the fault of the police. That condition was very bad for the government of this great city. Whenever the police and the magistrates are antagonistic it is an open invitation to the lawless classes. The police and the magistrate are employed by the community for a common purpose and between them there should exist the most friendly and harmonious and sympathetic relationship. The police officer who comes into your Court is as much an officer of the law as you are yourself. All of the assumptions are in favor of his honesty, his truthfulness, his fidelity and his integrity, and before you assume anything else or arrive at any conclusions contrary to that, you should have positive evidence. To say to a police officer, "I wouldn't believe any policeman; I don't believe you," to have an attitude of unfriendliness to the police officer and unappreciative

sympathy with the Police Department is, in my judgment, a bad condition of affairs in the magistrates' court.

After I had some experience as Police Commissioner and at a time when I must confess, to be perfectly frank with you, that what some of the magistrates said about me almost equalled what I thought about them, I went over to London to make a study of the police conditions in that great city and afterwards wrote them out in an article entitled, "The London Police from a New York Point of View," and I can say to you that I was deeply impressed, if not converted, in the opposite direction from what I saw in the Magistrates' Court of London. Very frequently magistrates of the old regime would rebuke the police officer at once for an arrest with which he did not sympathize, and would say: "This citizen had no right to be arrested; you should have done so and so," and discharge him. I was astonished and pleased the first day I sat with the authorities in Bow Street Court in London to see an entirely different condition of affairs. In the first place, we had in New York a remarkable physical construction of our court rooms. I do not know whether any of you at any time were in the courts before 1910. While in a busy courtroom on a hot morning in summer here in Manhattan, the magistrate would probably have over a hundred cases to dispose of outside of the complaints which he passed upon and for which no writ was issued. Both sexes, all ages and conditions of good, bad, and indifferent citizens, were crowded into this place. (I am sorry to say the city of New York does not house its courts properly. Many of the court rooms are in dirty and forbidding buildings, sordid in aspect and unsanitary in condition. None of them, with one or two exceptions, are such as they should be. The most modern of the buildings seem to have been reared with no regard for sanitation or letting in fresh air.) This audience was crowded into the room; the attendants were all policemen detailed by the Police Commissioner for that purpose. You can take it for granted that a large, fat policeman, built on the Percheron type of horse, showing wide scenic area from the rear, and who had not been on the street to do police duty for fifteen years and whose hardest labor was turning on the steam in the winter and re-filling the ice pitcher in the summer,

got to this easy job of attendant by some influence and pull. At any rate, whether good or bad — and they were not all bad — these specially detailed men assumed an air of property in the room so that when an orderly citizen came there it was doubtful whether or not he would be permitted to enter. After you got in they had something like a lawn tennis net made of wire which enclosed the space we might call the bar, so you got a hazy notion of what might be going on within the enclosure. They had what was called the bridge, that bore no relation to a bridge up-State, but was a small platform raised about a foot above the floor, directly in front of the bench, so crowded that the citizen had no view of the magistrate because he was carefully screened by the large policeman, the lawyers and probably a gentleman from the neighborhood who wanted to remind the magistrate that the defendant was a kind husband and a good father. There was the lawyer, the interpreter, the witness, the stenographer, all bunched there. The judge couldn't see anything about him at all; he heard nothing because the proceedings were carried on in a sort of family consultation.

In 1910 the police were put out of these courts. The courts were to some extent reconstructed and made to resemble somewhat the courts you are familiar with and arranged so there was at least several feet between His Honor and the privileged characters who were in the bar. Now, in London, the police testimony is given in an open, public way; here the police and witness whispered and no one heard, not even the defendant, (no one bothered much with him; he only found out what happened after it was over). They leaned over and talked; the judge and lawyer talked. In London the first thing that impressed me was the radical difference in the arrangements of the court room. The policeman stood some little distance from the bench; the arrangements were such that no one came within seven or eight feet of the magistrate, so no matter who you were, you could hear plainly.

I addressed a thousand young policemen before they left the school of instruction last winter and I tried to impress upon them that one fault of the police was the way they drop their voices when testifying. In London, a man talks up: "Your Worship, about half-past eight last night on The Strand I saw

the defendant in front of the Gaiety Theatre; he was disorderly; I remonstrated with him and he became ugly." Here, we would hear something like this: "About half-past eight I saw this guy on the corner; see? Understand me? And I grabbed him."

In London the magistrate says: "Constable, do you think half a crown would be too much to impose upon this defendant; you say he hasn't been arrested for six months?" Constable: "Yes, Your Worship, about half a crown would be right." Magistrate: "Half a crown." The constable was part of the court. The magistrate and the constable are both officers representing the peace and dignity of the State and the good order of the community. They are both employed by the same power and authority; they are working for the people of London and England to enforce the law humanely, kindly, but firmly. That is the relationship that should exist between the police and magistrate.

We have advanced immensely in New York. What I have described isn't the condition now in New York. I have no hesitation both as a former police commissioner and a magistrate in saying that the police conditions of New York to-day are excellent. I am thoroughly convinced that this city of New York, considering the very complex and difficult problems in population, so intensely cosmopolitan, is one of the best policed and best governed cities in the world. The streets are morally cleaner than any city in the world of its size. Men come from London, Berlin, Paris, Petrograd, and they go out on these streets and say, "It is marvelous," and ask: "How do you do it?" The street-walking woman nuisance, the professional strumpet, is less in evidence to-day in New York than in any other city of anything like its size anywhere, and this has been brought about by the harmonious and friendly co-operation of the police and magistrates.

Of course, many policemen are young men and once in a while one of them is a stupid man, is not of equal intelligence to the others. If the magistrate sees that—if he believes there is a better case than the officer presents he can arrive at two conclusions. He can say that the policeman is dishonest and is throwing up the case or is stupid and does not understand his business, but the magistrate must not forget in any event that the

policeman is not a lawyer and does not know what the rules of evidence are and we must not expect too much of him. You never saw a finer body of men than the New York police; they are getting particularly good, clean, splendid looking young fellows among the recruits. Every judge knows it to be a fact that they mean to do well and mean to do right and the rare exception is the dishonest and lying policeman.

A policeman is apt to jump at a conclusion. "Officer, do you know this man?" Officer "Oh, yes; he is a common gambler." Of course that is a question of law, and when that case is appealed to the General Sessions, often they reverse the magistrate because they said he allowed the witness to state a conclusion instead of the facts. And sometimes the officer is very zealous. You have a right to expect that the policeman should be as impersonal as you are. The ideal standard is, first, an intelligent policeman, and second, an experienced policeman, an honest policeman, and a policeman that knows something at least of the laws of evidence. That is an ideal policeman. He buttons up his coat and goes on the stand, and under our rule here he gives his name first. "My name is John Smith; my number 13,434; twenty-fifth precinct." We do that to save time. He sits up in the chair like an officer and a gentleman. "At half-past nine last night, I was standing on 4th Street and the Bowery. I first saw the defendant walking slowly and going south. I saw he had a package in his hand which I have here and offer in evidence." The older policeman in New York come to know considerable law. Some are most excellent lawyers especially at the Night Court for Women. They are plain-clothes men who get evidence against disorderly houses; they are heckled every night of the year; they are cross-examined by the lawyers, and they are used to cross-examination. The policeman knows the law of evidence as well as the sharpest lawyer that comes into court; he known the distinctions made on appeal and what is the fact to be proven; he will not make a mistake; he will tell the facts right out, clean cut, and not add a thing to the simple truth. Now, a young policeman or an inexperienced policeman comes and gives you the impression that he is prejudiced against the defendant. There are two classes of police

: there is the policeman who is keeping something back; telling you all; and there is the other class, he puts paint on good and hard. "Yes, I know him; he is bad character", and he adds a touch of the brush; he is painting in truthful colors. Then the judge naturally pro-secutes the defendant. This man is unfriendly; I am not getting on here; there is personal bias. Of course that is improper part of the policeman, because the policeman ought to be as impartial as the judge.

Policemen exercise an immense amount of quasi-judicial functions. There is a crowd and in the middle you see the policeman with his notebook. What is he doing? He is taking evidence. There has been an accident; a man is sitting there; he has a cut on his head; there has been an assault. The policeman has come on to see what is going on; he is the judge, and a good policeman is almost a natural lawyer, and if he is an intelligent policeman he keeps his head calm and impersonal and dispassionate; he is getting the facts of the case on that will depend whether or not he makes an arrest; he has to have the case. But if he decides to acquit him, he acquits him at that point there.

What is the police point of view of the magistrate? When I was Police Commissioner, if the magistrates had been elective and elected on the police force they would have all been out of office. You may say my word as Police Commissioner, without divulging secrets of the great department, I was constantly being assured that the use of the police going to the magistrates' courts in certain kinds of cases was going to be discontinued. I shared that belief to such an extent that we made raids on warrants on nearly all gambling and disorderly houses. I told you they have ceased, but they were the best we had then. The disorderly elements had challenged the law of the State and city, and we fought.

My work as chief magistrate is, in addition to its judicial functions, supervisory, administrative, and executive. I issue a large percentage of all warrants against disorderly houses, excise houses, and gambling houses. This is no reflection upon the magistrates individually or collectively, nor upon the officers of the police, but it was so arranged to meet a condition which prevailed. Under the old regime, we did not go to the

magistrates' court for warrants because of the leakage of advance information to defendants. A warrant was issued against John Doe, described five feet, nine inches, wart on his nose, etc., keeper of gambling house, and in many instances we found the gentleman with the wart on the nose had known about it long before we got there, so we started in. Now we have the support and hearty accord of the magistrates themselves, but we issue warrants from the central office of these courts. I have issued thousands of warrants in Manhattan and Bronx and now all over Greater New York. We issue the warrants in this wise: The police, who specialize in the matter of disorderly houses and what we might call the effective enforcement of laws against vice, are proficient in the matter of getting evidence and in the well-equipped headquarters of the inspectors the complaints are drawn by the police themselves. Sometimes a young policeman who has a natural aptitude for the law, probably has been a law student, will draw them up and they are well composed. They are brought to me and I read the complaint carefully and I swear the policeman and then issue the warrant which is numbered and that number is entered on the book. We do not enter the name of the defendant or disclose the place. Two police officers come in and hand me a complaint; the number of the place is not in the warrant; that is a blank space and no one but the officers and myself know where that place is. I say: "What is the number?" They say: "Number 45 West 45th street," and I write that in and initial it. After I have carefully examined the complaint and issued the warrant and numbered it, which number is entered in the book and made on the warrant, in order that there may be no abuse in withholding it, it must be returned within fifteen days to my office. Then I take it and seal it up in an envelope and address on it: "To the Presiding Magistrate, to be opened in Court," and the officer puts that in his pocket. Nobody has seen that complaint, except the man who drew it and the police officers who give it to me. Of the thousands of cases during the five years ending July first next, we have had a negligible quantity of failures to find the defendant, which shows the effectiveness of this method.

We have made great progress here in New York. The police and magistrates have both risen in public estimation. I have

seen the dark days in New York when in the popular mind there was a vast suspicion hovering over every policeman and every magistrate, when both institutions had sunk to low ebb in the public estimation, but I am glad to say to you that the office of magistrate in the city of New York is a dignified and respected one by everybody who lives here, that the body of the magistracy was never higher in the public estimation, that the police and the magistrates of New York have the confidence of the people whose laws they administer, that the magistrates' courts, are free from ulterior influences, and that the police of New York city are a highly intelligent, brave, courageous, upright, truthful and honest body of men.

I can go back to my own younger experience in a smaller community and remember what the relationship between the police magistrates and the police there was. Of course in the smaller circle everybody knew each other. The magistrate on the bench was "Henry" to the policeman who was "Mike." The magistrate knew the family pedigree and no one was trying to impose upon another, because the completed and intimate familiarity in which everybody in the community lived gave each one the knowledge of the other's character; but in a big city like this where there are ten thousand policemen and six millions of people and every race and creed that God has created or allowed on the earth, surging up and down on the avenues and pouring into these courts, no such opportunity is afforded us and no such relationship can exist.

The late Mayor Gaynor was a very sarcastic man when he wanted to be, and bitingly humorous. He once said; "the only thing wrong with you magistrates is you take yourselves too seriously." As a matter of fact, we take ourselves too seriously if we get inflated with any sense of vanity, but there is another way in which we do not take ourselves seriously enough. I heard many of my good friends say last night and this morning that they realized what a tremendous responsibility and what a great opportunity we have. I am only repeating what they said and what I have said myself very often, that I know of no office where the occupant has so large advantage in the way of doing good and such unlimited opportunities for evil as in the magistrate's office. There is not a day you go on the bench but you can do a good deal

and a worthy act, making the community a better place to live in, helping someone who needs help, and putting the heavy hand on the man who needs restraint. When a man or woman challenges the law before you defiantly, boldly, brazenly, when a vice springs up in the community, when it becomes a trust and commercialized with many behind it, and when the law and its officers are brazenly defied, put the heavy hand on them at once; be a courageous man; rise and be serious. You represent all that is good in the community; you represent all the traditions of the law; you represent all that the people want and you represent more than that,—the power of the whole people. Let them know that the law has an iron hand as well as a helping hand.

I am very sorry you have not had the opportunity to visit our courts. We have consolidated them under the Law of 1915 and we are going to make these courts model courts of their kind. We have done a great deal in New York; we have regulated street traffic, and they copied it in Chicago; we started the night court for women; we started the first domestic relations court. When you come to New York I want you to come down to 300 Mulberry street and I will be delighted to give you every possible opportunity to see everything we do and ask any questions you want to ask me concerning their administration.

HON. BENN KENYON, RECORDER, AUBURN: We have heard discussed the relationship of the judge to the people and the people to the judge and now we have under discussion the general relation of the judge to the police authorities. This last, I believe, is as vital, because it effects the harmonious workings of the law and enforcement of the law in different cities. After the admirable way in which Judge McAdoo has covered the subject, there isn't a great deal left except so far as there may be a difference between this great city of New York and the situation as we find it in the smaller cities, from forty to fifty thousand and over.

The policeman is a peculiar person, due to his training and due to the conditions and circumstances which he runs up against. He gets a conception which is different from anybody's else in the world. To illustrate this, you may take in your community perhaps the most respected citizen that you have; he may be the owner of the bank, a man in whom everybody has explicit confidence, a

no has never been under suspicion of any kind. You go down in the morning and learn that perhaps he has been for embezzlement and larceny and every policeman on the will immediately say, "I always knew the old son-of-a-buld get caught." Isn't that nearly a correct conception of the workings of the policeman's mind? In order to overcome must meet him on a neutral ground. Harmony is a necessity in every machine no matter whether it is mechanical workings of our big corporations or cities; therefore, that would come to an understanding between the magistrates and necessary that we may be harmonious in our workings and be proficient. One way, I believe, to increase this harmony relationship is by having frequent conferences with your captains and lieutenants and sergeants in order that when a man is brought to the station a proper charge may be placed on him. How many times you see a case brought in court go through the process of law and be thrown out because it was not right. These men are usually men who are glad to inform themselves of the law in order that they may take care of their business better, and therefore by frequent conferences with these you may get at the circumstances and facts and explain your conception of the law in order that they may better be able to meet each case as it comes in.

There is another thing which we meet and that is the raids on vice or against infractions of minor laws. As an illustration will take the opening up in the spring and starting of the automobile speeding. As is the case in other cities, we have speed weeks where there is a day when the officers are set with stop watches to teach the people a lesson. That never appealed to me. My chief in my office with me and we said, let's put a notice in the paper on such and such a day that the law is going to be enforced on the automobile. The second day after arrests were made; some publication of that; the second day following more arrests made and fines increased and every time after that until we reach what we consider the normal. This gets the public in harmony with you and the public in harmony with you makes for better feeling.

Another thing which I think is a good thing. Our policemen go to the armory every week to drill and one day out of the

month, every fourth Wednesday through the winter months, we have a talk, one by the district attorney, one by the city attorney or corporation counsel, and one by the magistrate. In these talks the men and the officials can get together; they can compare notes. The district attorney explains to the men what his conception of his duties are and he also tells the men what he believes to be their scope of action; when a case comes to him, what he expects them to produce. The city attorney does likewise, dealing more especially with the local ordinances and regulations over which he has jurisdiction, and the administration of the general affairs of the city in reference to keeping order. Then the magistrate has an opportunity to talk to all the officers in a body and outline before them perhaps what may be necessary in the establishment of the different charges, to give to them his conception of the duty and the proper practice of an officer. Thereby the officers learn what their real functions are; they learn what their place is; they learn that they are to keep order in the first instance; to make an arrest where they believe the law is being encroached upon, but that there is still another authority to pass upon the case. He learns that the magistrate is the only man perhaps that has before him all the facts and circumstances which surround a case. There may be some things in relation to the different defendants which the magistrate must take into consideration in arriving at a sentence which he is satisfied to impose. All of these things by these talks you can get into the officers' mind and by them you can get harmony of thinking, so that the district attorney, city attorney, the magistrates, the officials in your police department and your patrolmen, all have the same point of view as to their different prerogatives and what their duties are and what they are expected to do.

HON. THOMAS H. NOONAN, CITY JUDGE, BUFFALO: I want to emphasize one or two little points of the many excellent ones that Judge McAdoo has made. Those of you that have been to conferences with me before know that one of my hobbies is that of a court with proper surroundings. It was my fortune once to go into the Westminster Police Court in London, and I was impressed by exactly the same things which impressed Judge McAdoo,—the absolute efficiency and precision with which things moved.

In the first place, the court is a court and not a theatre. It is constructed for the benefit of the maudlin populace that come and hear testimony of racy cases. The court I went to had two benches in the back for spectators' seats that wouldn't hold more than ten or fifteen people. The judge sat on a bench higher than ours; the prisoners sat over here on another bench all alone. The counsel was down in front of the judge, and one of the things that impressed me was the absolute fairness of the prosecuting attorney. It seems they have a system where they have a certain number of police prosecutors and if the police think the case merits the attention of counsel, they send it to counsel.

Now it wasn't the effort of the prosecuting counsel to trip the Crown to trip the defendant into something that would make him commit perjury; the whole effort was to keep him from committing perjury. The case in question was for book-

The statute had just gone in force; it has been an old custom to bet your head off on the races, and this fellow was charged with being a bookmaker and here was the way the counsel went at it. "If I told you we can prove so and so, make it that if they had been able to prove that, the prisoner would have been committing perjury) "would you still testify to what you are testifying to now?" There was only one prisoner in the police court at that time. They had their prisoners in a room; they brought them in one at a time, so every minute they had an air of dignity and order. One of the things we want to reach forward to is to get police courts with good surroundings.

Will do Judge McAdoo and my other friends from New York to know that what he says about the police and magistrates in New York is generally the current report up-State, viz., that we never had a better police department nor one run more honestly and efficiently. We get fine reports up-State not only about the police, but about the courts, and when we meet the good magistrates that come up from here, we think that Judge McAdoo is very modest in his statement of the qualifications of the judges that are serving in his court here.

There is one other point regarding the cooperation of the magistrates and police. I put it in practical effect last year in

In July there was a concerted effort to raid a lot of

disorderly houses which were absolutely rotten. The restricted district, so-called, in our city, is rapidly undergoing changes. There are a lot of industries going in there and the houses they were after were the worst, where soliciting was from the window. The chief put a good bright lieutenant on the job who knew how to make a case, and he started in. He didn't go quite far enough. He would say, the girls would invite them in to have a good time, but I told him there were seven hundred and seventy different ways of having a good time, and for him to do so and so and go a little further. The result was when he got through with the cases he brought in you didn't need proof as to the disorderly character of those houses. The inmates themselves by their own conduct proved that. His evidence was in intelligent shape and they were all convicted and most were appealed and most were affirmed. That is an illustration of how a magistrate by friendly cooperation with the police officer can get things done, can lay the heavy hand on those that ought to have it, and let those who don't deserve punishment go.

We are confronted at times by chiefs of police who are not willing to assume their own responsibility and who make foolish raids, bringing in many poor cases. Then they blame the magistrate and go to the newspapers and say, "I cannot enforce the law because the magistrates do not support me." It goes without saying as long as we decide the cases on the evidence we can justify our conduct before the public.

JUDGE BRADY: We have the opportunity up-State to get into close relationship with the police authorities. The police magistrate should be the adviser of the police department. I have been frequently called at night by telephone by police captains or police sergeants or policemen to answer a question or to advise them as to this, that or the other. Our court is situated in the City Building of our city and the police headquarters are in that building and also one of the police precincts. The consequence is we are just one family, so to speak. Whenever matters of importance come to police headquarters, they immediately come to the magistrate if they feel that they want some advice, and I find that the closer the magistrate keeps to the police and the more advice he gives them in a friendly manner, the better results you

These men know as well as we do after they have had experience as police officers whether or not they are present-worth while and when you pass a case and say that the information is not sufficient or the information is not substantial to warrant your taking action, if they have had experience they know the reason of your action. We may be content that respect more fortunate than the magistrates in New York.

ago I asked this conference to advocate the necessity of the people represented in our courts. It is an important matter also is the matter of interpreters. An interpreter should be at police courts, because of ten cases that come to our courts there are not two in which you can proceed without the assistance of an interpreter. To depend upon some friend of the defendant or complainant is difficult and unfair.

McAdoo: About the people being represented in the courts. Here in New York county the district attorney sends a representative to court each day except to the Court of Domestic Relations. He has a numerous staff—about 53 in this county. In Brooklyn, or Kings county, we do not have a representative in court every day.

He goes to say, the district attorney is not represented in the Court for Women, but as the so-called "unfortunate" is represented by everybody, I do not see why she needs additional help. She has four or five philanthropic associations, individuals, and a woman lawyer who volunteers, so everybody represents the defendant in that court. There the judge hears the case and make a record which is going to be reviewed, so we are dealing with a very delicate operation of the law. On appeal many cases, so he has got to make a record that will stand an investigation by the Supreme Court at Washington, and so far, as to her rights. By law, we must give the defendant all sorts of warnings. "Now, you can write your lawyer; be sure and tell your wife; send two telephone calls; tell your uncle in Omaha that the trial is coming off; you can get two stamped envelopes, and you can write and get a reasonable adjournment, and you can have a right to get counsel, and you can consult your counsel." We tell them all

this before we put them on trial. After we convict them, we must repeat it. We have told him in advance, but we must tell him again, and cases might be reversed if we forgot to mention about the stamped envelope or the free telephone. We have to be sure to make an absolutely technical record, fire-proof, water-proof and dust-proof.

Now, about the interpreters. We have in all the courts in Greater New York interpreters who are provided for by law. The number depends on the action of the Board of Estimate and Apportionment. The only language not represented was Chinese up to three months ago. We get our interpreters from the eligible list of the Municipal Civil Service Commission, after competitive examination, and over here in Manhattan we have always made the rule to ask for a man who speaks three languages. We say, for instance, "Please send us an interpreter in this group: Yiddish, Italian, and Polish." Of course we speak every language except possibly the English in these courts. I got a Chinese interpreter, a graduate of Harvard, a learned doctor, for this reason. I had at one time two hundred Chinamen, charged with gambling and they were represented in groups by lawyers. One lawyer had five, one had fifteen, and I noticed every lawyer brought in his own interpreter. One interpreter had cut off his cue and had a cunning look and you wouldn't believe him on sight. You don't know what he is handing you. The other Chinamen keep silent; you read nothing from their faces. Unless we have a Chinese interpreter who is an official appointed by law and whom we know to be a man of integrity we cannot get along. Then it very often happens that these interpreters get in conflict as to what is being said.

Another case: A rowdy goes in and cleans out a chop suey house and wrecks the place and the Chinaman grabs the ruffian. The case comes up in the morning. There is the Chinaman, mild and with a black eye; there is the ruffian, and there is the officer. The officer says: "I heard this Chinaman yelling and I went over there." The Chinaman said something, and I ask, "Anybody speak Chinese here?" Not a soul. The ruffian is represented by counsel. "I represent this defendant; I demand his immediate discharge; he has been locked up twenty-four hours." You are

... fellow did what the officer thinks he did. You do not have a Chinese interpreter and of course you have to discharge defendants for lack of the interpreter. We keep our new interpreter down at headquarters and I can get him on the phone and send him to any court in any part of New

BENJAMIN J. SHOVE: There is need of prosecuting attorneys in the courts of cities of the second class and also, I think, in the courts of third class cities which are given exclusive jurisdiction of misdemeanors in the first instance. Some years ago I discovered that I didn't have a sufficiently versatile mind to be both a prosecuting attorney and judge in all cases of misdemeanors so I quit the court in Syracuse. That was some six years ago and I have since worked very well indeed. We did it in this way. We passed through the Legislature the creation of a fourth assistant district attorney whose entire function was prosecution in the courts of Special Sessions in the city of Syracuse. That is his work and function and duty. He is paid half by the city and half by the county, and has worked exceedingly well. I find that he becomes the natural buffer between the police and magistrate for the reason that the police are required in a case where they haven't sufficient evidence to go to the prosecuting attorney and the magistrate naturally explains to them the law, and if the policeman doesn't have a sufficient case, he goes away satisfied instead of blaming the blame to the magistrate.

Another suggestion in regard to this matter of the police and magistrate. I think the worst mistake a magistrate can make is scolding or lecturing of the policeman in open court for an unintentional mistake made through ignorance of the law. Of course, where we come to a case where we can clearly see that a policeman has taken his position to avenge himself for a private grievance that is a different matter, but the open scolding or lecturing of the policeman for ignorance of law or unintentional mistake, is, I think, the greatest error a magistrate can make in getting into a harmonious relation with the police

THE DETENTION AND COMMITMENT OF CHILDREN

HON. WALTER I. HOVER, CITY RECORDER, AMSTERDAM: The proceedings of this conference will be beneficial to the entire State. Uniformity of action by the numerous Courts of Inferior Criminal Jurisdiction will be thereby promoted. General laws defining and punishing crime have a State wide operation yet the actual outcome is a great variety of sentences for similar offenses depending upon the temperament and wisdom of the various judges acting within their statutory discretion. By these conferences the judges are enabled to ascertain the consensus of judicial opinion upon matters most frequently coming before them and thus avoid radicalism in imposing or suspending sentence. A man duly convicted by a court having jurisdiction of an ordinary larceny should not be disposed of lightly by one magistrate in one locality and severely dealt with should he happen to be brought before another magistrate in another locality. Radicalism, favoritism, temperament should never enter a judicial decision. There is no better way to avoid such extremes than general conferences of all the magistrates of the State. If the magistrates themselves would appreciate this and endeavor to be present on such occasions the wisdom of creating this association would be fully vindicated. Owing to the shortness of the terms of the up-State magistrates and the meagreness of their compensation the tendency is to get along the easiest way possible with the least effort and expense. There is, therefore, a lack of harmonious, judicial action throughout the State on the part of the Courts of Inferior Criminal Jurisdiction and easy judges are found in some jurisdictions and hard ones in others.

The children of the State are its chief asset. It is within reason to say that in the brief period of thirty years nearly all of us here assembled will have passed to another forum. The men of business, lawyers and judges of to-day will then have been superseded by the children of the present. The State does well in providing for its aged and incompetent, those nearing the horizon's edge, those illy treated by nature, but it does better when it cares for its little children and compels those in immediate charge to do likewise.

The doctrine of *parens patriae* is a beautiful conception of the overshadowing fatherhood of the State. Government among men

its highest levels when it gently yet firmly places its arm around its little children. By this is not meant an undue paternalism on the part of the State, but that interest compels the delinquent parent to fully discharge his duty to his children and intervenes to protect them from him and from the influences of the world where such intervention may be necessary. The power of the State rises superior to this; no municipal function can claim a larger dividend.

The ancient doctrine of *parens patriae* in respect of children has been mainly applied to their civil interests. The power of the State in it has been administered through the chancery and equity side in civil matters for many years, but comparatively recent that the wardship of children in criminal matters has been effectively recognized by the State. The late constitution took cognizance of this and notwithstanding that the idea of the State's super-guardianship in matters criminal as well as civil has not and cannot be defeated. It is now established that a child under sixteen cannot be convicted of a crime except in cases punishable by death or life imprisonment. These exceptions such a child is not indictable and can be found guilty of juvenile delinquency only. Thus the State, recognizing the frailty of its wards intervenes to protect them from the embarrassing record of a criminal conviction. Thus the use of the odious word "convict" is enjoined from attaching to a child in their early days and from hounding them to their shame. While equity jurisdiction by the present constitution is vested in the Supreme Court, yet Children's Courts, within their proper discretion, in effect exercise a part of the power.

Thus thus set a limit to the power of its courts, within that limit they have a large equitable jurisdiction particularly in criminal cases and it was one of the purposes of the late proposed constitution to further amplify it. In all such cases the judge should be free to inform himself of the particular case from all available sources of information, should not be hampered by technicalities of evidence and procedure, should be free to make such use of the case as justice, the welfare of the child and the interests of society may require.

A magistrate is frequently called upon not to try, convict or punish but to talk to and warn a disobedient child. In such cases

the court in effect exercises pure equity powers in their simplest form. In many such cases the awe of the new situation, the kindness yet firmness of the magistrate may so impress the little offender that nothing further is required. This proceeding is entirely informal, without publicity and without record of conviction. And it may be that the judge to insure future good conduct places the offender on informal probation under the oversight of the probation officer. Personally I have found this a sufficient and effective remedy in a great many cases.

Proper and secure detention quarters should be provided for juveniles awaiting parents and friends, awaiting trial, or awaiting execution of commitment. Such quarters should not resemble a jail but they should be so secure that the defendant cannot escape. I am the more impressed with this necessity from the fact that certain boys having business with the Recorder were found missing when wanted. In many cases the custody of children pending hearing can be entrusted to their parents but there is a possibility that some parents might connive to get the child out of the jurisdiction and thus safe. Secure and proper detention quarters should always be accessible.

The probation system avoids the necessity of commitment in many cases. This system is a direct outgrowth of the doctrine of *parens patriae* to which I have before alluded. It has proved very effective in juvenile cases and I have not hesitated to use it freely in disposing of juvenile delinquents. The child is the true probationer. With him the probation officer has the greatest influence. It is he who daily redeems himself from the slips of yesterday. Probation for adults in many cases may be good but in children's cases it is invaluable. Certainly a person of maturity has less claims upon clemency and upon "another chance" than the young and inexperienced. Under this system the child has not only the benefit of the advice of the court but the closer touch of the probation officer whose paternal influence and powers under the direction of the court are very wide. Probation to be effective must be gentle yet firm. It must not become common knowledge among the boys that the probation officer is a joke and that nothing will happen if he is disobeyed or disrespected. The court should stand back of him and assist him in maintaining discipline and not abandon the case upon its delivery to him.

Commitment may ultimately become necessary and when the proper time has arrived the court should not hesitate. After probation and reproof have proven failures let the court fearlessly commit to some suitable institution. To allow the blandishments of friends or the persuasions of parents to interfere with proper judicial action in such cases is to discriminate and to destroy the discipline and authority of the court. Many parents strenuously object to the commitment of their children to proper institutions not knowing the advantages to be derived therefrom, and some parents seek such commitment to get the support of the child shifted off onto the municipality if possible. All these sinister considerations must be ignored by the court. If the time has come to commit let the commitment be made. If the parent is seeking to rid himself of a just and natural responsibility arraign and commit him also. Very seldom is there a case of habitual truancy from lawful instruction brought before the Recorder of the city of Amsterdam these days. And consider, we have a population of 35,000 including many peoples from foreign lands having large families. I believe that truancy has been effectually curbed by the vigorous action of the attendance officer and by the court fearlessly punishing delinquent parents in some cases and committing the little truant in others.

In most cases of concerted action among juveniles there is a ring-leader. A minor offense will be committed and the offenders brought before the court will range in age from the very young to those of sixteen. In such cases the court should endeavor to discover the inspiring genius and if he deserves it, commit him to some proper institution both for his own good and for the moral effect of the example. The rest of the boys may get off on probation but the thought of the sudden and ignominious downfall of their leader will long linger in their minds. Such action by the court will effectually break up crowds and gangs of boys who are not bad at heart but easily led by a more sophisticated associate.

It may be necessary to commit a child through no fault of his own but for his own protection from the influence and abuse of evil parents and mean surroundings, from his being cast upon the world a little vagrant without visible means of support. In such cases the real equity power of the court is exercised and the

State receives its children as its own. In reality the child is not convicted of anything but is simply put under the shelter of a good institution. Let the prosecuting authorities also see to it that those immediately responsible for the conditions are apprehended and punished. I doubt whether the court after having made a regular conviction, judgment and commitment has any authority over its own works. Magistrates' courts are limited in their powers by the statute governing their creation. After a case has finally passed through a magistrate's court and has proceeded to execution of sentence without doubt, as to that case, the court is *functus officii*. There may be power to correct an irregular commitment but hardly power to vacate a sentence or to resentence. Yet the court will be beset by parents and friends that he change his decision or release the defendant from the custody of the institution to which he has been committed. I have found that the assumption of authority to do these things has not worked well. It destroys the authority and discipline of the court and the authority and discipline of the custodial institution. If it is done in one case it can be done in the next and so on. If it is done in one case and not in the next then favoritism is charged. The only safe way is to be very careful in making commitments and after due deliberation having made one stand by it. Let the court begin to trifle with its own decisions and its usefulness begins to end. If parents and guardians understand that when their children are taken from them by the kindly intervention of the law they will have to remain without discrimination under the rules of the institution a reasonable time, they will be more careful to see that they do not get committed in the first instance. There is a quick and sure remedy by appeal in such cases by which errors of the committing magistrate may be corrected. To make men, boys must be taught to obey, to respect their elders, to respect law and order and to know who is boss. Many children are spoiled at home and when they get into children's court endeavor to run the entire proceeding. In such cases the court must not allow too much interference by parents or friends. If the authority of the parent in children's court is to override and supersede that of the magistrate he may as well close his chambers and go home. Let the court act gently yet firmly. Let moderation govern the entire proceeding.

There is a wide difference among juvenile delinquents in their views of a court proceeding. I recall a case coming before me of a young lad up for juvenile delinquency whose manifestations in court closely resembled those of a wild animal. On being sentenced to Industry, he began to rage, bucked his head against the chairs and furniture, yelled vociferously and could only be restrained by the intervention of the court officer. This boy seemed to be utterly without respect for his parents, the law, the court or anybody else. The last I heard from him he was doing well at Industry. On another occasion a lad whose case had been adjourned came into court on the trial day with his valise properly packed ready for a trip and a smile on his face. Between these two extremes all shades of character and temperament manifest themselves.

In a city the size of Amsterdam the court cannot give its entire attention to juvenile cases. The Recorder has to hear and determine domestic relations cases, misdemeanors of all grades where the defendant elects to be heard in that court, and cases of felony coming before him in the first instance as committing magistrate. It must be confessed that the structure and jurisdiction of the inferior criminal courts of this State rest upon a very unscientific basis. There is a lack of uniformity in jurisdiction and an inadequacy of jurisdiction. Throughout the history of the State the development of criminal procedure seems to have lagged far behind the civil. The inferior criminal courts are courts of first instance, very close to the people and should greatly interest the people.

A child committed for juvenile delinquency is in no sense committed in punishment of crime. The sole object is to correct and benefit him and protect society from his going from bad to worse. The court making the commitment cannot foretell how long a time will be necessary to accomplish these results. It therefore is difficult to impose a definite sentence as to time. As the sole object is the betterment of the child the institution to which he is committed and under whose care he is, can better determine when that has been accomplished than the court out of whose sight he has passed. It seems to me that unless some specific statute interferes it is better to commit indefinitely under the rules of the institution.

There are in the State many institutions having authority to receive children, created under a series of special statutes. Some of these are State institutions and some are of an educational and charitable nature. Here also is a lack of uniformity in jurisdiction and discipline. To avoid commitment for a definite term and to avoid court action to terminate the commitment and to prevent the commitment from becoming a continuing source of revenue to institutions having authority to charge back the expense thereof to the municipality, institutions authorized by law to receive children should be allowed to detain them no longer than their general improvement and conduct warrant. Their release should be forthwith reported to the committing magistrate or his successor in order that the child may be looked after by the local probation officer. Such institutions receive children not as criminals but as wards of the State and *pro tempore* stand *in loco parentis*. They can much better than the court determine when a child may safely be returned to parents or friends. Their guardianship should be carefully supervised by the superior powers of the State. Further, a discharge to be earned by good conduct is the highest incentive to that conduct. In this way the courts will be relieved of the necessity of imposing definite sentences in matters which so intimately involve the future, and of subsequently interfering with their own decisions. Favoritism or undue influence should never effect a discharge. It should rest entirely upon merit. Such action would secure the best discipline. If by any possibility it be found necessary, to maintain the discipline of the institution, that those there committed be held for a definite time, that time should be the shortest consistent with general improvement and good behavior. I think that those released from State institutions under the supervision of the State parole officer should also be subject to the oversight of the local probation officer, he to assist and coöperate with the State officer. I think that the automatic discharge of a child upon the expiration of a fixed term imposed by the court or at the end of a definite period fixed by the rules of the institution, without regard to his improvement and prospective conduct closely parallels the procedure in an ordinary criminal case. For these reasons it occurs to me that under careful supervision the managers of the institutions receiving children on judicial commitment are in a better

position than the court to determine the question of release. As in chancery so here, the welfare of the child is the primary consideration.

The true forum for the adjustment of juvenile cases is the home. Over-indulgence of children is as bad if not worse than neglect. The first leads to affirmative wrong-doing; the second to wrongful omission. There is more hope of the neglected child than of the pampered, over-indulged, self-willed one. The boy who has passed through the hard places of life and has had to fight his way up will succeed, while the pampered one languishes along the primrose path. In the olden days great men arose without the aid of children's courts, probation officers and juvenile institutions. To develop stamina a boy must be a boy. He must learn by experience. Those qualities which make men must be developed not extinguished by home or institutional training. And that Judge who so transforms an unruly boy as to command the thanks and respects of that boy grown to a man, will be an honor to the bench even though it be of the police court. While the higher courts are determining property controversies and adjudicating upon specific rights between individuals and corporations, the humble police courts are trying to make men for the future state.

HON. JOHN J. McMULLEN, POLICE JUSTICE, SCHENECTADY: To those familiar with juvenile court matters a definite rule for the detention and commitment of children is impracticable. The treatment of certain problems, however, may be more effectively applied by a methodical consideration of certain elements. With this purpose in mind, we may, without regard to arrangement, divide the subject into the following topics:

1. The nature of the offense.
2. The moral caliber and hygienic habits of the home and associates.
3. Mental condition, habits and sensibilities of the child.
4. The place of detention and its corrective influences.

1. The nature of the offense.—In considering the nature of the offense, we must always give to the young a presumption of lack of criminal capacity and remember that mischievousness in a child may appear criminal, measured by the standards of adults.

In the absence of other persuading elements, whatever the nature of the offense, supervision under normal conditions at home is indicated.

2. The moral caliber and hygienic habits of the home and associates.— The importance of these elements in determining the disposition of a convicted juvenile cannot be over estimated. They constitute the influence called “environment.” So potent a factor in determining the permanent character of the individual is environment, that during the process of physical development the human having a criminal tendency, whether caused by a definitely abnormal condition of a brain center disturbing the balance and coördination called “normal” or by a sub-normal condition with a like result, may be affected and generally corrected by environment in its broadest sense.

3. Mental condition, habits and sensibilities of the child.— It is only after a careful investigation and consideration of the mental condition, habits and sensibilities of the subject that the relation of environment to corrective influences can be determined. Children with gentle natures respond more freely to treatment intended to stimulate sentimental impulses with punishment as a fear, while aggressive, rebellious children frequently yield more readily to sterner treatment with kindness as a reward. The commitment of a child of delicate sensibilities should be resorted to only as a last measure, while persistent obstinateness must be discouraged before any corrective influences can have potency. Often, after a short committment, less than one week, a rebellious child will return with a satisfactorily changed attitude.

4. The place of detention and its corrective influences.— Where commitment is clearly indicated, we should in every instance acquaint ourselves with the policy and character of the institution before committing. It is difficult to think of a juvenile delinquency which justifies the detention or commitment of the child in any place devoid of a sympathetic administration of discipline. The corrective influence of detention and commitment of children must always be considered. We lack suitable institutions.

The Department of Public Health of the State of New York figures that for every life saved whether by the reduction of infant mortality, the cure of a tubercular patient or otherwise,

h of the State is increased five thousand dollars. The
inal is not an asset but a liability, a menace to society.
corrective treatment of the juvenile delinquent by the
sure is of greater value to the State.

deplorable that a policy of false economy deprives us of
sary institutions to properly detain and commit children.
anals, monuments, junketing trips and luxuries gener-
allowed in the State budget as essential. Curtailment is
shed by cutting the allowances to the State Training
Hudson, the Rome Custodial Home, the State Farm for
at Valatie, the State Colony for Boys at Industry and
stitutions of like character. One of the most important
relating to the detention and commitment of children is
ute inadequacy of suitable institutions within the State
York and it behooves us to properly present and urge upon
nistration of the State the grave importance of providing
aces for the detention and commitment of children.

CHARLES L. CHUTE, SECRETARY OF THE ASSOCIATION: In
smaller cities of the State they continue to send children to
lock-ups, and in a few cases to county jails, where they
are or less in contact with adult offenders. They still do
in Utica. Boys are continually being sent to the lock-up
not kept separate entirely from adults. That is a bad
I think we should advocate an entirely different kind of
children awaiting trial and investigation, a place for
tion and observation.

PROBATION OFFICER D. J. WHITE, NEW YORK CITY: If I
boy on probation and he violates the conditions of proba-
very seriously, I cannot do anything but return that boy
and send him away for an indefinite period from eighteen
to two years. A boy shouldn't get eighteen months for a
that kind. We should have a detention home where a
l be sent for treatment, a highly equipped and organized
n along the best child-caring lines where the boy could
and where they could have psychologists and medical
mine the boy to find out what should be done with him.
stitution should be under the management of the judge.

You could commit a boy to this place for two or three weeks or two months or four months, for instance. If an environment was unsuitable then you could hold the boy for three or four weeks until the family got a chance to move. Sometimes he is not fit for probation, yet you shouldn't send him away for eighteen months or two years. However, in New York City, there is no place of this character since the Brooklyn Disciplinary School has been done away with.

JUDGE SHOVE: I am wondering if our experiences in Syracuse would be at all helpful in regard to these matters. First, as to how we got a detention home. The justice there carried on a propaganda of education for some four years in this way. From September until May he practically spoke some two or three times a week before every church society, Sunday school or men's or woman's club that would listen to him. That propaganda was carried on, a sort of campaign of education, until the city administration admitted that if the justice would draw the law the time was ripe; so we obtained it. I think the most telling argument that was made during that propaganda was this simple question which was invariably asked of men before ministers, teachers and all classes of people; whether or not there was any man in the audience who had not committed in his boyhood some offense for which he could have been committed to a penal institution and if there was such a one in the audience to raise up his hand. Of course no hand was ever raised. I think that was the most telling argument advanced.

Now in regard to the practical experiences we have had in regard to detention homes. Of course, it is of immense use in the case of the ungovernable child. As you all know, the average child of all classes,— it doesn't make any difference whether rich or poor — feels no sense of obligation to his parents. I think that is true of boyhood throughout; that that is a sense that comes to him very late in life and sometimes not at all. We are all familiar with the young loafer 26 or 27 years of age, who has never done any work in his life, living upon his parents. In the case of the ungovernable child a week's detention in the detention home under proper supervision, teaching him some obligations that he owes to his parents, we find of immense use. Of course, in all serious

cases we hold for medical examination and for mental examination as well. We are especially favored by having a psychopathic hospital very close to the detention home and we handle those cases that way. Under the law, we can keep a child thirty days in this detention home. We find thirty days sufficient, ordinarily, to handle these cases.

A word about bars and bolts upon detention homes. There our experience may be helpful. Of course, primarily a great deal depends on the personnel of the superintendent and matron. We had a superintendent from whom escapes were frequent and the more bars and bolts he succeeded in getting upon the detention home, the more the escapes. We changed that policy and worked it out this way. As soon as possible after a child is brought into the detention home the justice is informed. He sees personally the child, pending the arrival of his parents or guardians, and has a talk with him. Now, if the child is committed regularly to the detention home for a certain number of days he is put upon his honor by the justice himself. It has been found in Syracuse that this must be the personal work of the judge. In other words, a probation officer, the superintendent or matron doesn't seem to make the needed impression; but the fact that the man who has the future disposition of the boy in his hands places him upon his honor, seems to be sufficient. The boy then is put upon his honor; and upon his pledge of honor he is allowed to attend school, coming back immediately at noon; if the school is far away, he is allowed to take his luncheon, but coming back immediately after the close of school, that boy goes to school regularly; he goes to church on Sundays to his own church, goes by himself, comes back. We have been working under that régime for some two or three years now, and we have no more escapes. The boy simply goes and comes back to the detention home and it seems to work admirably in Syracuse. Whether it will work in other places, I know not, but it works all right in Syracuse. The boy comes back invariably; the result is we have some wire screens on some of the windows but no bars; of course one should use common sense in regard to the method. We had a Macedonian boy recently charged with assault in the first degree, yet juvenile delinquency because under sixteen. In that case our detention home was not deemed

sufficient and we had him detained in the matron's department under the chief of police; but in the ordinary case of juvenile delinquency we find simply by the judge putting the boy upon his honor, he comes back every time.

PROBATION OFFICER WHITE: Wouldn't it be a matter of economy for the detention home to be equipped to handle the boys anywhere from a week to four or five months? We found that 184 remands to the Brooklyn Disciplinary School saved the city thirty thousand dollars and the boys came back and were successful. Why send them away for eighteen or twenty months or two years?

JUDGE SHOVE: The idea we should all strive for is the Cleveland idea; that is, of the farm school run by the city itself that is both a combined truant school and detention home for boys; that, of course, is the ideal thing; but where the detention home is right in the city itself, it has been our experience that thirty days is about as long as we can use it in any case.

JUDGE BRADY: Judge Shove has made a very valuable suggestion here. With reference to the manner in which he endeavored to bring about a consensus of opinion in favor of the erection or maintenance of a detention home in Syracuse, he says that whenever opportunity presented itself he spoke. I take it he created the opportunity himself on several occasions. It is a valuable thing on our part as magistrates, whenever opportunity presents itself, whenever request is made, to answer the request, to accept the opportunity and get before the public and talk upon the various matters of importance to the public, matters that we have to deal with day after day. If we do, I am quite sure in a very short time we will find in the several communities in which such action is taken that the people will begin to realize that the court is of some consequence and that the work it does is of some value to the community.

FOURTH SESSION

Saturday Afternoon, January 22, 1916

PROBATION FOR JUVENILES — WHEN IT IS APPLICABLE AND WHEN NOT

JOSEPH H. BEALL, CITY JUDGE, YONKERS: I had intended to deliver an address to you men a year ago, but Providence intervened and kept me in St. Luke's Hospital. I am glad to consider this topic with you who are trying to work out these old problems. There is very little of it that leaves room for discussion. I take it that you men are continually pressed with the same questions involving not only juveniles but adults, and all know that the juvenile problem is the one that best can be handled. The adult problem is a serious and very uncertain one. There are many laws that we have that are inferior to the laws the ancients had. There were many laws that the Greeks had that were better than the laws we have on certain subjects. The laws of the Romans were better in many respects than the laws which we have, and yet we have what they did not have: the power to help the child.

You ask me to answer this question as put on your program for today, I will tell you that I cannot, and I have tried six hundred boys. That is only a few compared with the City of New York, I know, but I am in the position of the little girl who was asked once when I was investigating her case, and I asked her about the situation of her father: "I am very glad to say that he has neither too much money or too little; he is fortunately circumstanced." So with reference to this question of probation I have been fortunately circumstanced. I have a city big enough and with a population complex enough to furnish much work for my probation officers, all that they can do, and on the other hand, the problem isn't so big that I cannot handle it. For all those laws of the Greeks and the Romans, we come ultimately to the Jewish law and to the Scripture, and to the love, charity and kindness of the man Christ, who replied when

they asked him, "How often shall I forgive my brother, seven times?" "Until seventy times seven." That is not our statute law, and yet it is our moral law, whether we be Hebrew or Gentile. So I say to you in answer to this proposition as to when juveniles should be put on probation that I know they ought always to be for the first offense. I have one great big fundamental rule in my court and that is this, that no boy is to be ever sent away to an institution unless he is dangerous to other boys, always with the exception of course that his home conditions are such that he must be taken away. So far as the boy himself is concerned, no boy goes from my city to any institution unless like a bad apple in a barrel, he is endangering the morals of other boys. Because there is no home, in my opinion, where there is affection, where there is love, where there is assistance, that isn't a little bit better than an institution. I have made a radical statement to you when I said that. You men know it, because you are charged with a great responsibility; you are dealing with the liberties of others, adults and children, probably exercising the profoundest function, the highest duty that can be devolved upon men. I know of nothing greater than that, that there should rest in your power the liberty of a human being, whether it be a man or a child, high or low, rich or poor.

Let me illustrate this for a minute. I am going to tell you about something that I told the State Probation Commission's people in Albany. It comes to me as the most apt illustration of this thing. I had years ago a case where two boys eloped with a girl. One of them was an apprentice in a drug store and they agreed that he should, and he did, administer chloral to his employer. He drugged him by putting this chloral in his soup and then they opened the cash drawer and took two hundred dollars. They took the girl and went up to Seneca Falls, N. Y. Now I am mentioning this to show you the seriousness of the proposition. That is one of thousands, and it is serious. Take the elements of crime. Consider, you men who are dealing with crime every day, that that was not a crime of impulse, that it was studied, that it involved the risk of a human life, that it involved the virtue of a woman, and was a great big problem. When I came to it I found that there had been nothing against

of those boys before, nothing in either of their histories or families that justified, it seemed to me, any harsh action. I put probation in that case, and this is why I say to you that cases in the first instance are cases for probation. One of the boys is now a very prominent official in a railroad which I don't know the name of if I mentioned it, and the other is the manager of one of our great factories in Yonkers today. It was all for probation.

This week I had a case where a boy shot another boy. That was itself differently, as a crime of impulse. The boy shot the other boy quickly. Fortunately he didn't kill him and I let him go on probation. That was a case for probation. So it is my general rule, taking the boy's side of it, is broad and liberal, and in the first instance, in the first offense, probation is always advisable.

In truancy cases we have had great success; probation is the remedy for truancy that we have been able to find in my experience. I say I have tried probably a thousand boys a year and one hundred girls and yet on the girls' side we have not made a success. There have been failures on that side of the question that have challenged my conscience and my judgment, and things have happened that made me regret I was ever a judge. There is a difference, of course, in the physical and temperamental constitution of men and women. I have had no success, practically none, in probation among women, except in suicide cases. Of course, the study of suicide is a very fascinating study, if you have to deal with it. Curiously enough, the only humorous thing in the Penal Code is contained in the section with reference to attempted suicide, because the great law givers say that it is a crime against society and is constituted a felony, but as the successful perpetrator of it is beyond the reach of justice, therefore no penalty is fixed. That is delightful to my mind, but it isn't humorous when they try it and fail. I have found in suicide cases that there is only sympathy and that is kindness. I have had an understanding with the district attorneys of my county for ten years that I should handle suicide cases myself. I have to hold them until they are sent to the grand jury, but it is generally understood

that nothing will happen to them, and I am to take charge of them in the meantime. I have found in that line of cases probation is wonderful and it is the only thing that could be done, because manifestly if anybody wants to kill himself he is going to do it; you cannot keep a man from killing himself by locking him up in a cell. I have had men commit suicide in jails and in hospitals.

Out of the line of discussion that is laid down for me by my text, I want to say this to you, that in my last annual report this curious thing occurred which I knew was true, but never have been able to prove by figures, that beginning down at eight years of age the number of boys arraigned in my court each year run up by an ascending scale until thirteen and then they drop; that from thirteen years of age to fourteen there was a drop of forty per cent. and from fourteen to fifteen they pretty nearly disappeared. Which shows this: that if you can keep a boy out of an institution if you can handle him and bring him along over that precipice, past that dangerous age where he gets sense, you will work the thing out.

I am very proud of the probation system that we have in my city, because I established it myself. We take in ten thousand dollars a year in the Domestic Relations Court and pay it out in dribbles of one and two dollars a week to people that need it. This is a good thing in that complicated city of mine with all manner of people coming from all the ends of the earth, from Assyria, from that great dismembered nation, Poland, with her three sub-divisions, from Russia, from Italy; all manner of people brought there by those great factories that we have,—good people at heart, but misunderstanding the nature of our institutions and unable to look after their children. Probation has helped me tremendously. I could never have gotten along without it, and I am going to answer your question here by saying again that every first case is a case for probation unless the home conditions are such that it is impossible to work it out.

We are living in a new age, certainly the most potential and tremendous age that men have ever lived in. There has been, probably, more of development not only material but Christian, in the past hundred years than there had been for the previous

nd. It was only a hundred years or so ago when they executed a man by putting him on a gallows and hung him and his body hung there until it rotted, under some feeling in the then justice that that prevented crime, and it is only a little ago when the jail was nothing but a cistern where a man was thrown down into the ground and left there with the water and mud and frogs crawling over him. There has come to mankind a sense of humanitarianism. It has been embodied in the laws; it is being practiced by the judges. The question of whether a boy shall be placed on probation or not is a question for the boy to look back upon his own life and see what his own school-ends did, to consider whether he did the same things this time he is doing, and when the judge does that he will find pretty much every boy is a fit subject for probation.

ROBERT WILKIN, JUSTICE, CHILDREN'S COURT, NEW YORK CITY: Attending a function in the Court of Special Sessions yesterday on the retirement of Judge Fleming, I listened to a learned and kindly talk by the Ex-Chief Justice of the Court. He said, "I am not sure that I agree entirely with the new idea that seems so prevalent now that the criminal law should be entirely without any idea of punishment for crime committed." I had long since had for a long time in my mind the same idea, but I cannot express it perhaps in a little different way. The criminal law is our dealings with those who do things that are unsocial, that are offensive or hurtful to others in the beginning perhaps intended to express retaliation. I think perhaps that that is the feeling of the community has been overworked. It is not human nature. If a man steps on your toe in a car you are right in a minute to repel it. I know that to be the case if anybody stepped on my toe. And carrying out that idea I have felt as was suggested to me by the then superintendent of the New York House of Correction one day when I was talking with him. I asked him what was the population there and it was about the time when probation was being generally introduced. "Well," he says, "they were not doing probation; now everything is probation. The idea is to be that when you have a boy and he has committed an offense that he is always to be put on probation and that probation

is a punishment. They are not sending boys here in anything like the numbers they did. The pendulum will swing the other way sometime, until we get back to a normal condition."

I agree entirely with everything that Judge Beall has so well said. I look at it, however, in somewhat of a different way, perhaps only expressed differently. I am quite sure that if we had talked over the matter beforehand, I wouldn't have had a word to say, because he would have covered this too, namely, that every case that comes before any of the judges is one that requires not a general rule, but a special rule applied to that particular case. I have often said that my idea of the treatment of juvenile cases is one rather along the line of a moral clinic; that it is the province of the judge to examine the case rather as a physician diagnoses a case that comes before him, than as a great being who represents the power and authority of the State to administer pain and suffering. For that reason, it seems to me that while, if you like, we should banish every idea and thought of infliction of punishment for the sake of administering pain; at the same time we should try if possible to instruct, to infuse into the juvenile before us the idea that his act is an act that he would not like to have performed or perpetrated against him, as well as to, if possible, give him an opportunity to understand his condition.

I had a case, a first offender in the sense that he had never before been before the court, a boy fourteen years of age who was delivering newspapers and did it in a part of the borough where the houses were separated somewhat. On this particular occasion he went to deliver his paper at one house and he saw the woman who had lived in the next house come out of the door, go down the step, out the gate and down the street. He delivered his paper and went in there with a paper in his hand, knowing the door was only latched, found a coat inside with some twenty-two dollars inside the pocket, took the money, went out of the house and as he was going down the street the owner saw him come out of the house. "What were you doing in that house?" "Delivering papers." "You don't deliver papers there." "Oh, yes, I do." "I live in that house and you come back with me and let's see." He found no one in the house and made some investigation and

the money missing and found the money on the boy. He went down before the court and pleaded guilty, as they found, and the question arose what disposition to make of

developed from the detective who had investigated the case. The boy had been involved in something over forty cases of burglary, which we would call burglary if committed by an adult. They couldn't find out where the money went to or who committed these offenses. The question came up what to make of the boy. Prior to that time, so far as I knew, there was nothing that would indicate a criminal character in the family or in the boy. It wasn't an easy problem to solve, but to make a long story short, after looking over thoroughly, I placed that boy on probation. After talking with him at considerable length and going into the matter thoroughly, I felt that that was the wise thing to do. Now, the boy is about four years old, I think. The boy has been working and had his working papers shortly after that. He has been on probation since that time and he has paid back to the people he had stolen the money from some thirty-two dollars, and he assures me that he assures the probation officer who has charge of the case that he is going to pay back every cent that he stole. I am quite sure that in the case first came up, some of those who knew what I had said that I had made a great mistake. I don't believe I did. The restitution, the continuing penalty, if you require the returning that money, depriving himself of the benefits of which he is now honest, I felt was a dignified plan and basis upon which to benefit the boy. I believe today that that boy is a better citizen, and I believe the boys in his neighborhood who know of that case are going to be better citizens than that boy to the House of Refuge.

Here is another case that developed only a day or two ago. Here is the case of a boy whose parents died when he was young; we have been able to find out very much about them, but what we know is not against their character and up to the present time from one particular matter we know nothing against the boy. After his parents died, he was taken by a relative to be reared. He is a good appearing, presentable boy, aged about

fourteen years. He has a way about him that is very taking with people. When his relatives died, he was so well liked for his general characteristics that a man in the neighborhood with a boy of his own took him into his house; fitted him out; took care of him, and then the boy stole some seventy-eight dollars from him and ran away. It developed afterwards that the boy had been systematically stealing from a number of people in the neighborhood, but at the same time, while we have that unofficial record of peculation against him, the gentleman from whom he stole this last money said to me only the other day: "I want that boy back again. He is no relative of mine; I have no interest in him except I have made up my mind that I am going to make that boy a good boy; if you send him to an institution I will follow him along and I will try to take him back again when he comes out. I understand his case; I understand his attitude better now, and if you will let this boy go on probation and under my care I am quite sure I shall be successful in pulling him through." That is a case I also put on probation. I speak of these cases because they are difficult to handle from the point of view of the outside public and these are the ones that trouble us more than the ones in which everyone says, "Let him go on probation; he has been a good boy before."

I feel, therefore, that the attitude that we should assume in all cases where we feel that probation can be of benefit is that there should be something along with the probation, along with the giving them another chance, that shall be constructive in its attitude and effect upon the particular boy. I think it is the variest nonsense to talk about giving a boy a chance or a man a chance, when he has been convicted of an offense saying, let him go and give him a chance. What chance has he got? He goes down to the foot of the steps outside the court; he has a record of conviction against him and nothing ahead of him that is going to encourage him; he is probably out of a job by that time, and what chance are you going to give him under those circumstances? If, however, there is anything in your court machinery that is likely to give that boy some constructive help, so that he may get a different relation to the community at large than he had before he came into the court, it seems to me probation generally will be efficacious.

other phase comes to me. A boy may be sent to an institution. You know our friends say, "Send an alleged bad boy to institution and if he isn't really thoroughly bad when he goes out will be when he comes in contact with the other bad boys in the institution and will come out worse than he was when he was in the institution and will be taught the things that a boy shouldn't know." Now, my idea is that the trouble is not at all. The thing he will learn that is most valuable, that is most offensive, most destructive to his character, is the fact that he will get a different attitude toward society.

Boys who are brought up in a good family, taught as each day by their parents that this or the other thing isn't right, that is wrong, that this is something that is despicable, that is something that is offensive, no wonder at all that you go and suppose you are brought up in a family where the proper thing is to be that you might help yourself to anything, if not caught; to destroy, when you are not apprehended; to do wrong acts, indecent acts, to use bad language, to call names and everybody bad filthy names; to disrespect authority in the church, in the State, in the school, or anywhere; is there any wonder at all that you would come under the notice of the law? Is there any wonder that you would commit acts that would be a disgrace? It seems to me, therefore, that the most important connection with the probationary oversight and the proper treatment and care of boys is that their attitude shall be right. How often a man will go and brave anything, risk his life, do anything, for an idea, if that idea is ingrained in his heart and soul and mind. Now that same idea, if gotten wrong, is the thing that will keep that boy from forgetting his responsibility and his relationship to the rest of the community.

There are two main things to consider: first, our dealing with the boy is a matter for the same study as is given in a clinic to the doctor in a bad condition; second, if we can change the attitude, establish a right attitude towards the community, we will easily solve the problem as to whether we shall put a boy on probation or not. These are the two particular points that answer this very pertinent question that has been presented to us to discuss today. There are

several other points that it seems to me might be touched upon, but these are the two fundamental thoughts I had in mind when I began. If we can apply these, the question put here for discussion is one that can be answered mostly, not always of course, because none of us are perfect yet, but mostly, in a satisfactory way.

HON. CORNELIUS F. COLLINS, CHILDREN'S COURT, NEW YORK CITY: The great difficulty we have here in the City of New York, I don't know whether it obtains throughout the State or not, is that we have no place for short periods of commitment. We must either send the boy to an institution for a long period or put him on probation. Two years ago there was a Brooklyn Disciplinary School where we could send them for short periods of commitment and with a considerable amount of wisdom the institution was found to be unsanitary. Instead of obtaining a sanitary building or curing the evil by removing the unsanitary conditions, they abolished the institution and didn't put any other in its place. The Commissioner of Accounts recently reported to the Board of Estimate urging that a place for short commitments be provided, but up to the present time that has not been done. We find that the minds of people with regard to this subject are peculiarly situated. I think all the judges agree that there ought to be a place for short period commitments, yet all the institutions in the State, the quasi-public institutions, are of the opinion that the only way you can bring about a reform is by the indeterminate sentence. You find two classes of men dealing with this subject, and it is an unfortunate situation. There are times you have a boy before you whom you want to let down easy, but you don't think it right to put him immediately on probation. In many instances you want to get it out of his head that probation is a joke. Here in New York City boys traveling with other fellows are too frequently encouraged to believe that if they do a particular thing, nothing will happen except probation, and if they slip while on probation and come back that they will get a laying out from the judge and probation will be continued. If there were an institution where you could put them for a while to serve as a check, to let them know what might come and after a short period of time place on probation, it would be a wonderful help. In the

e we are helped out largely by the different children's but the children's societies state very properly that they maintain houses of detention or reformatories, but that societies for the prevention of cruelty to children. Yet ing our feeling, they have helped us out very materially overcrowded.

veve that the State Association of Magistrates should themselves on record that we ought to have an opportunity e could put boys for a short time to study them to see or not you would have to sentence them to an insti- f it were only for the purpose of giving them a lesson ek or two and get them in a receptive mind. We don't commit to institutions except as a last resort or unless compelled to do so. Recently we learned that in eighty y per cent. of the cases in the State prisons the inmates some institutional experience. It is hard to explain, if o, why it is so, but we do know that we want to give the girl all the chance possible and don't want to commit to tution unless we must; but we shouldn't be put to the alternative of placing on probation or sending them away ar and a half.

e SHOVE: In regard to revoking probation: The Appellate has held that the judge placing on probation can not ere whim or on hearsay, issue a warrant for the person n probation and enforce sentence without a hearing. Our re in Syracuse is as follows: The probation officer makes avit, reciting the judgment of conviction, the suspension nce, the probation, the rule of probation that is partic- n question, and then the violation of that rule, stating ticulars of the violation in detail. Upon that a war- issued for violation of probation. When the defendant ht in he is given a hearing. In two cases before me the mer was found not to be at fault, so that a czar-like, auto- method of sending to jail on hearsay in these two cases ave been most unjust.

de of the discussion, the spirit moves me to make a general t. As I have been sitting here for these two days I have ntally contrasting this conference with the first conference

of magistrates. Judge Brady, I know, was there and perhaps some others here. The first impression is the care, the preparation and the thought put into the subjects under discussion by the speakers. I have been floundering around in this work for eleven years nearly and I want to personally thank the speakers here for the many helpful suggestions that I have received. The second impression, which is perhaps of more importance, arises from what may be termed the atmosphere of this conference. A stranger coming in here might think that this was an ethical congress. That is, the stranger might think that, if he had never attended an ethical congress. If he had, perhaps he wouldn't think so, for the reason that this has been a discussion by practitioners and not by theorists. What I mean by "the atmosphere" is the intense spirit of the conference and of every magistrate and judge attending this conference to do in his own way what best he can in the interest of humanity.

HON. WALTER S. GEDNEY, POLICE JUSTICE, NYACK: There is one point that it seems to me hasn't been accentuated by any of the speakers. It comes to my mind that possibly if we bear it in mind it may help somewhat in this question of probation. Personally I do not believe that punishment of defendants is a deterrent or a correction, but the fear of punishment sometimes is. It seems to me that in the majority of cases, it is possible by letting the attitude of mind of the accused reach the point where they understand there is a danger of punishment reaching them, that it is imminent and hanging over them, and sometimes that will bring about a change of mind necessary to bring them to a recognition of the rights of the general public. As Judge Wilkin well said, it is a matter of study of the individual cases; but it does seem to me that it is possible frequently, by exercising the mind of the accused, to bring him to the point where he may see what the future might hold for him, and sometimes that will help toward bringing about a change in his attitude.

PROBATION OFFICER WHITE: Can you bring a child back to the judge, snap him up on the street, in the school, without a warrant if he disregards his conditions of probation? For instance, he may not report to me. That is not an offense, but a violation of probation. What I want to know is, should a warrant be issued in that case or can I bring him back without one.

JUDGE WILKIN: It seems to me that that is very easy to answer. Frequently probation officers will walk into court with the boy and report to the court that the particular boy has violated some provision of the suspension of sentence which has been imposed and he has just said to him, "Now, Johnnie, you had better see me on Thursday," and the boy comes in. I discourage as far as I can the issuing of warrants. There are times when, however, you have got to catch the probationer with a warrant or without a warrant. Each probation officer, by the way, is a peace officer and he, without special difficulty, knowing what the provisions of the law and particular requirements of the court are, knowing that they are violated can bring the boy in. Of course, the whole provision in regard to peace officers and others making arrests applies in every case, but I feel wherever it is possible that a bench warrant should not be issued.

There is this to be considered also. Boys are human like the rest of us. The boy does something. He is told to be at the reporting place at such an hour; he may come a distance or he may not. Many things may have interfered on that particular occasion which prevented his getting there on time. The strict rule that is laid down can hardly be applied to the boys that we deal with. In the first place, the mere fact of their previous life has perhaps not promoted that strict punctuality in keeping their engagements that many of us think is important. But I have had cases where probation officers have come into the court and asked to have a warrant issued for a boy and I have issued a warrant and few minutes after the warrant has been handed back, the boy came in late. It seems to me every case has got to be taken up individually and no rule in regard to issuing warrants or summons can be laid down and always followed.

While on this subject, let me call attention to one important thing. Some years ago a celebrated Italian, a writer on criminology, laid down a rule that the particular shape of a man's face, or the particular color of his eyes, or the distance between the lobes of his ears, indicated that he was of a criminal type. He had quite a school of followers, but later study, emphasized by Dr. Healy in his "Individual Delinquent," clearly disproves that contention and shows to us that the individual delinquent is the individual boy

or the individual girl, and that each particular case can hardly be taken up on a general rule in regard to what the procedure may be.

I don't know whether I answered the question or not, but it seems to me every case has got to stand on its own feet and that is where the wisdom of the judge comes in.

PRESIDENT APPELL: We will now proceed to reports of committees.

REPORTS OF COMMITTEES

Committee on the Constitutional Convention

JUDGE NOONAN, CHAIRMAN: I will make my report very brief. The committee was interested in two things relating to the work of the Magistrates' Association. One was to make it possible for a defendant in a certain class of cases to waive a jury trial and be tried by the court, and in order to do that it is necessary to prosecute by information as well as by indictment, so we drew up and prepared the requisite amendments. They were introduced in the convention by Mr. Sears of Buffalo. Only one got through in modified form, so if the constitution had been adopted it would have been possible for a man to waive jury trial and proceedings before a grand jury, and secure an immediate disposition of his case before a superior court; so it stood in the proposed constitution. That same amendment, by the way, has been introduced in the present Legislature by John Knight. If they had gone to the extent we advocated in our report, it would have been possible for us in this State to have adopted the Canadian practice. They try in the magistrates' courts of Canada everything except about six capital offenses: rape, first degree, treason and what they call "trade conspiracies," and one or two others; the great bulk of the felony cases are disposed of by the magistrates themselves on the election of the defendant, and a trial by jury in Canada is almost an unknown quantity, except where compulsory. The Crown Attorney at Hamilton, Canada, says 99 per cent. of the people who are tried by the higher court are tried by that court without a jury and by their own choice they prefer to take a chance with the judge rather than the jury. Now you can see what a saving that would mean. They didn't adopt our suggestions in full; I don't think we can get it. There was a lot of

ception on that proposition. Many people thought it able a lawyer to get a hand-picked judge on his cases. rse, we advocated uniform jurisdiction for courts of risdiction and uniform tenure of office for judges, and f tenure. They didn't go anywhere near as far in that we wanted them to go. I think the work ought to be

I think that we ought to secure these recommenda-ast as we can in the ordinary course of events. There f constructive work that the Magistrates' Association rough getting these necessary changes in the Constitu-e end that sometime the magistrates will be enabled to f a great bulk of criminal cases that are denominated ut in name only, and are only first-class misdemeanors. consent of the defendant, always, and under the control rict attorney, always, so there will be no miscarriage of

ENT APPELL: I am going to suggest that it would be a if we should have a Committee on Legislation of this on and I should like to entertain a motion to that ommittee which would keep its eyes upon all proposed a.

PIPER: I make such a motion.

SKINNER: Second the motion.

ENT APPELL: The motion is duly made and seconded mmittee on legislation be appointed to represent this ion when necessary. Those in favor will say, aye. no. It is so ordered and carried.

*ee to Attend Meeting of the District Attorneys' Associa-
tion at Rochester*

GILLETTE, CHAIRMAN: I attended the Convention of Attorneys held in Rochester and found that our local attorney had in mind proposals to the State Constitu-vention similar to the action taken by our Association. ured me that such action would be taken; it was taken forwarded it to the Constitutional Convention and the

matter in a modified form was embodied in the proposed constitution, as alluded to by Judge Noonan. We all know what happened to the constitution and many of us regret the happening of it.

Committee to Attend Meeting of the State Bar Association at Buffalo

JUDGE NOONAN, CHAIRMAN: I got back from the Magistrates' Association just in time to attend the meeting. It could only be a sort of diplomatic mission. I made it a point to see the men who would help us, the men whose assistance we needed. I knew former Chief Judge Cullen had very pronounced ideas along certain lines. I went over the matter with him very carefully to show him our plan was not radical; that many of these matters could be just as properly safeguarded by legislation and we would make the system elastic enough to meet changing conditions. As you know, at a State Bar Association meeting most everything is prepared ahead of time, and much of this matter was put off to the meeting held later in Albany. The same situation then prevailed. It was only to take action on the matters undisposed of in Buffalo, so it was hard to get a hearing there. I went there and having no place, of course I had to wait until practically the last order of business. Judge Clearwater was very fair in his treatment of the proposition. He gave me every chance that a man could possibly ask for, but they were unable to reach that order of business until midnight and you know how much consideration is given a subject along towards midnight. I had a chance to get a few ideas before the adjourned meeting. There were only about fifty people present and that was all I could do.

Committee on Training Schools for Girls

JUDGE WILKIN, CHAIRMAN: In behalf of the committee appointed at the last meeting of the Magistrates' Association to endeavor to secure more accommodation at the Training School for Girls at Hudson, and also if possible to plan the establishment of a similar reformatory in the western part of the State, I would beg to say that your committee has been in communication with the management of the institution at Hudson and through the president, Miss Mary H. Hinkley, prepared a memorial to be

ed to the Governor last spring during the session of the
ure.

communications were sent by the members of your committee
of the magistrates throughout the State requesting that
uld write to the chairman of the necessary committees of
islature and also that they each individually would see
representatives in Senate and Assembly and impress upon
e importance of the enlarged accommodations for the care
unfortunate girls who were fit subjects for the institution.
ght increase in the appropriation was made and equip-
r the three new cottages which had been built at Hudson
plied. This has increased the capacity in a small way, but
ot in any way been adequate.

that a continuance of the efforts of this, or a similar com-
should be provided for by our Association and that
ce be made on the creation of another institution in western
ork to meet the conditions in that part of the State.

THE DOOLEY: Adopting the suggestion of Judge Wilkin, I
at the Committee on Training Schools be continued.

THE PIPER: Second the motion.

THE WILKIN: I feel that the committee would do a great
re if we could have two committees instead of one. The
is this. We want enlarged accommodations for about five
d girls at Hudson. We want in addition to that a place in
tern part of the State, and I feel we ought to have a com-
for Hudson and a separate committee who can take up
e subject of getting a commission appointed to establish
tution in the western part of the State. If the matter goes
one committee, of necessity, the chairman is looked upon to
reat deal of the work and necessarily must do so, and he
e located in the eastern or western part of the State, and one
subjects is going to be necessarily neglected; whereas, if we
two committees both matters will be considered.

THE SIMMS: I move that there be an eastern and western
tee consisting of three members, and that they work
r.

THE WILKIN: Second the motion.

PRESIDENT APPELL: The motion is made that a committee for the eastern and one for the western part of the State be appointed for the purpose of taking up the enlargement and enhancement of training schools for girls in this State. All those in favor say, aye. Opposed, no. It is so ordered.

Committee on the Drug Evil

JUDGE COLLINS, CHAIRMAN: You will remember that the Committee on the Drug Evil was appointed in order to secure certain amendments to the Boylan Law. The amendments we had in mind were first, an enactment which would compel a druggist to account for every disposition of heroin he made. Up until last year the law, while perhaps they thought they had covered that, permitted a druggist to make this explanation when confronted with shortage on accounts: "I haven't accounted for this because I compounded it into the drugs." The act required him only to account for what he sold on prescription, what was dispensed, in other words. Again, it was desired to cure a clerical omission in the bill, a defect in printing, perhaps in the State printer's office, so that the act left a broad omission with regard to where it applied. Third, it was desired that throughout the State there should be opportunities for making commitments to institutions where the psychological condition could be taken up. You remember we complained that committing them to a hospital under the old act merely meant that the subject would be treated clinically and that would take about a week or two weeks and the victim discharged and would go back to the habit, and although the clinical cure was effected, the desire was not cured and the treatment of the mental condition over a protracted period was not provided for.

These three subjects were taken up and we drafted the amendments. There was a committee in New York City entirely similar to this committee and the recommendations were exactly the same as our committee made. I acted in cooperation with both committees. Mr. Wilmot of the District Attorney's office was on the committee which included representatives from the different courts and the public officers who had charge of the special departments of correction of Bellevue and allied hospitals, the County Medical

tion, Prison Association, and the like, and the Mayor was interested. The subject was considered at some length. I happened to be on their special committee to draft the legislation and drafted it. Every single amendment which we recommended was enacted in what is known as the Bloch bill. The bill was introduced in both houses at the same time. Senator Boylan heartily concurred with us and was ready to act. You remember the day we had our meeting in Albany, Senator Boylan told several of us that he would be only too pleased to do whatever he could. So Senator Boylan introduced it in the Senate and Mr. Bloch in the Assembly. Mr. Bloch's bill went through the Senate and Senator Boylan had Bloch's bill substituted for his own.

You know that the Harrison bill has gone through Congress also. Legislation, so far as legislation is concerned, is splendid. However, the New York City committee would like to recommend to the Association of Magistrates, and the recommendation comes from the District Attorney of New York, that there should be two further amendments: one that would require a doctor who has been treating a drug addict for a period of more than three weeks to report the case. This might meet with opposition, but there is a great necessity for it. A drug addict should be treated in almost the same way as any peril in the community should be treated. That class of cases must be reported to the Board of Health because they might be a menace. In New York City we find some doctors wilfully violating the spirit of this law by prescribing for the drug fiend. The drug fiend would get a regular quota of drugs by getting his prescription regularly. Some of them do administer drugs to treat a drug fiend, but the law is to reduce it down to nothing at all, but in two instances where a doctor only reduced one grain in about four grains, giving thirteen grains at first and getting down to eleven. It is an outlet where the evil might still continue to some extent and we require doctors to make some such return.

Another amendment is to save to the use of the community the drugs that are confiscated. You recollect the law provides that all must be destroyed. There isn't any reason why the hospitals of the State that have to use those drugs shouldn't

receive them for their use, so it would perhaps be a good idea to suggest an amendment so that the State in its economy could make use of confiscated drugs. The amendment with regard to saving the drugs has been introduced and the one that requires physicians to make a report after four weeks' treatment of a drug addict is going to be introduced on Monday night.

Judge Dooley has suggested that this committee might be continued. When we went to Albany I was in a position to say before the committee that I represented not alone the departments down here, but the State magistrates as well, so perhaps if continued it may be helpful.

PRESIDENT APPELL: If there is no objection we will consider that the committee is continued.

JUDGE DOOLEY: I will make a motion that this Association favor the bills proposed.

JUDGE BYRNE: Second the motion.

PRESIDENT APPELL: The motion is made that the bills proposed by the Committee on the Drug Evil be advocated by this Association. Those in favor say, aye. Opposed, no. It is carried.

JUDGE BRADY: This subject is only in its infancy. Eventually we will find it will be necessary to have a State institution or some institution set apart to which this class of persons may be committed in order that they may be treated for the period of time that is necessary so that they may go out cured if a cure can be had, instead of going out after a temporary treatment and simply coming back to their old methods. From what I have heard from those competent to talk on the question, it seems to me it is a loss of time to commit this unfortunate class of people to institutions for short periods of time; it does not gain anything either for the community or for the individual to send them to institutions where there is not at hand the proper method and proper means of treating them and where there are not present those who have given special attention to that particular subject. We know how the numbers are increasing in our various cities. We have hospitals for the insane and hospitals for other unfortunates. Eventually we shall see the necessity of having a State

for this class of people where they may be properly and held under commitment for a sufficient length of order that they may go out into the world cured to some

THE SHOVE: There is undoubtedly no body of men in the that know our needs and our embarrassments as well as and it struck me that we ought at this time, perhaps, to te some method by which we can present these things in natic way. For a number of years we have brought up ject of the State Reformatory for Male Misdemeanants. know the need of it and the embarrassment we labor under having an up-State reformatory of that kind. We know has been started and we know that through lack of appro- is it has so far failed. We are embarrassed in our work by of sufficient institutions. Under the new law passed in ve are allowed to commit a child who is certified by two ans to be feeble-minded to custodial institutions for the minded. I have three on my hands in Syracuse duly certi- two physicians as feeble-minded. One of them was sent institution and promptly returned by the same officer that n up on account of lack of room. Those boys are kept in ention home as long as we can — thirty days — and then out on the street for the reason that the institutions have n for them. Why not systematize and bring these things actical form before the Legislature every year in as a manner as we can? It has occurred to me it would be usefule function of our new Committee on Legislation to each year on the legislative needs. This committee should and as part of their work that they present to this con- what appears to them as the needs of institutions through te based on our present embarrassments and our experience work.

GEORGE S. DITMARS, CITY JUDGE, GENEVA: This is the ne I have ever had the pleasure of attending one of your nces, having only been a magistrate for about twenty days. er, I have listened with intense interest and I have gathered est of ideas and suggestions which I believe I can put to al use in my future work.

If I was to criticize the program or the work of the convention, it would be due to the fact that it has been confined mostly to the larger cities. We have heard a good deal about New York, Albany and cities of the first and second class, but very little about the villages and the rural districts and the cities of the third class. Of course, the general statutes apply to all magistrates, but conditions are considerably different, I take it, in small cities and villages and in the rural communities.

I think that magistrates in the smaller places can and ought to do in great measure, preventive work. An ounce of prevention is worth many pounds of cure. We know practically everybody in our communities. We know the conditions and we know those who are getting a wrong start. In the city of Geneva there is a very excellent woman, superintendent of what we call the Social Service League. She receives a salary which is contributed by the business men of the city and devotes her whole time to the work. Only the other day there were two young girls, one seventeen and the other nineteen, who came to me with their troubles. Their mother had died last summer; their father had practically abandoned them; they didn't have decent clothing to wear; and I, after counselling with them, turned them over to this superintendent of the Social League and she is looking after them.

Another instance. Only a few weeks ago, there was a young girl sixteen or seventeen years of age, right on the verge of destruction. This superintendent became interested in this young girl. Today she is in a training school for girls at Elmira and writes delightful letters back, so glad that she received help. This same lady has settled up two or three domestic troubles that would have otherwise come in my court, and when I came away she was working on a bastardy case for me.

I speak of this particularly to the magistrates who represent smaller communities and my suggestion is if you haven't anyone who is paid or devoting their time, get hold of some good woman or some good man to help you keep an eye out for the boys and girls whose surroundings, whose environments and circumstances are such as to lead them astray, and by that means you will get them started right and save themselves a lot of trouble and you a lot of work, possibly, as otherwise they will come before your courts.

intensely interested in the discussion of the relationship of the magistrate to the police department. Every morning I have a quiet conversation with our chief, and find out who has been brought in during the day or night, their circumstances, and what the facts are as far as possible. That is simply emphasizing the point made by Judge McAdoo this morning that there must be coordination and working together, a feeling of respect and confidence and courtesy between the magistrate and the police department.

During the twenty days I have been a magistrate, almost every day I have one or two old offenders, what we might call "old pros," unfortunate old fellows who are so diseased with alcoholism that they cannot help getting drunk and getting into the courts to come before me. On one occasion I asked the chief for the record of one man. He was in jail ten days in October and ten days in December; he had had eight or ten different sentences. What is the use? It seems almost like committing a man to jail, spreading a disease. It is adhorrent to me to commit those old unfortunate fellows who have become so addicted. The larger the city the more providing for this class of inebriates. Here in New York City we have a farm and are building a home to take care of these cases. I understand Rochester is doing the same thing, but in our rural districts we have no relief. What are we going to do with them? We cannot put them on probation. You send them to jail or to the penitentiary and they come back mentally and physically worse than when they went and therefore in a worse condition than they were in. They are not so strong to resist the temptation of alcohol as they used to be. I desire to get drunk. The particular point I would like to bring up is this: That we should, if possible, have a committee appointed at the close of this session or by the present presiding officer or the future presiding officer, one or more members of the board from the rural districts, to see if we cannot figure out some way by which we can give those unfortunate people a chance to receive some medical treatment or to be placed on a farm or some other thing done with them by which they can be benefited, instead of making them worse by sentencing them. You cannot fine them because they have nothing to pay their fines with. We ought to make some arrangement, possibly sending them to our local hospital. It is possible that arrangements might be made by which

they could be sent to the county farm. We have a beautiful farm of 212 acres; the people there are not able to work; we have to hire help to work that farm and it is possible some plan might be worked out by which some of these older people might be put on these county farms. We have a physician who visits there and he could treat them there. Then when they come away they will be stronger mentally and physically and in every way better able to resist the disease and temptation.

HON. PETER CANTLINE, RECORDER, NEWBURGH: I think if the judges in the rural communities will make use of the opportunities about them they will be able to overcome a great many of what seem to be serious difficulties at the outset of their terms. I found in my city that I was confronted with what I thought were almost insurmountable obstacles in the way of not having a proper detention home and proper probation officers and not having this or that which would be necessary to the proper administration of the law by a criminal magistrate. I found we did have opportunities that had been overlooked from time to time. I found we had a children's home; I found we had a home for the aged people supported by the city; a large city hospital; we have churches; we have several charitable organizations; I found we had public spirited citizens who would cooperate. So we organized what we call a club of officials who were dealing with social cases, like the health officer and the matrons of the different homes which I have spoken of. When we have a case of a child and have no place to send it pending trial, we call upon some of these officials to cooperate and they look after the case. I found in the case of an habitual drunkard who has gone the limit and has become diseased, that we had a hospital which would be willing to cooperate if called upon and provided they understood the situation. Before that, there was a territory which could not be crossed, but after this organization was perfected and we sat around a little table once a month at which we had an informal dinner and discussed our problems, we found that they interwove and that by exchanging ideas we could work them out.

The small community cannot provide temporary detention homes for the boy or girl where you have't more than half a dozen

pe a dozen cases a year. You cannot educate the public believing that it is necessary to spend thousands of dollars where there are only ten or twelve cases involved in the course of a year. You can only reach a certain few in any community by the press or speaking or writing or discussion, and they are the minority, and the people get the notion that you are wasting their money. Neither can you have the public prosecutor or that official which the larger city can provide, but you can, if you use those officials that you have, teach them what you want and what you expect of them, and by cooperating with them you can have almost what the larger cities have.

Year we had a convention of these officials and each one brought out his problems. We had a large attendance and I found that the cooperation not only of officials, but of business men, manufacturers and employers. Very often they call up and say, "Is there anything I can do for you in the way of putting this in your position," or, "Is there a girl that needs care and protection?" They are cooperating and doing away with a great many problems at the outset. Therefore I think if the magistrates in smaller cities will begin a campaign of education like Judge McAdoo did and bring to the people the practical questions which are involved and teach the people the needs and that it isn't a lot of money for a new institution or a new official that you want but cooperation and the use of the institutions in the way that they could be used (because sometimes officials think they own the institutions and they will not let down the bars a bit), then you can get what you want.

PRESIDENT APPELL: Before relinquishing my duties as the president of this Association, I would call to your attention very early the very good and efficient work of Mr. Chute and his assistants throughout the year. They have placed themselves at the disposal of your officers and committees and have rendered, very early in the last month or so, magnificent service. I am sure that it is the sense of us all that they deserve a real vote of

and I want to also offer my thanks and that of the conference to Magistrate McAdoo and his clerks who have so kindly assisted us during the past few days.

SECRETARY'S REPORT

SECRETARY CHUTE: I will make only a brief oral report as secretary, covering the work of the Association during the past year. The Association has done more active work during the past year, between conferences, than it ever has before. Two of the committees have been very active, their work already having been reported upon. The secretary's office has endeavored to cooperate with these committees and the officers so that the work of the Association might be kept alive as much as possible between conferences. For the Committee on Training Schools, under the chairmanship of Judge Wilkin, we sent out a circular letter to every magistrate in the State and to various State institutions and departments. Working with the Committee on Constitutional Convention, we published the brief Judge Noonan prepared and sent that out to all the magistrates of the State and to all the members of the Constitutional Convention, to all the district attorneys, to newspapers and others. After the committee met with the Executive Committee in Albany, letters were addressed to the chairmen of the Constitutional Convention committees who had amendments in charge, introduced or endorsed by the Committee on Constitutional Convention of this Association. Reports were sent from time to time to the member of the committee and to the officers of the Association.

The usual work was done in preparation for this conference in cooperation with Judge Appell, who told you of his splendid trip through the State to stir up interest and to make this convention the best attended and most successful that we have ever had since the Association was started in 1909. I have received a great many letters of regret, as replies to letters sent out by President Appell and myself, personal letters to many magistrates, as well as the circular letter which went out to every magistrate in the State.

We have published the proceedings of the last meeting and will be glad to publish the proceedings of this meeting in the next report of the State Probation Commission.

RESOLUTIONS

PRESIDENT APPELL: We will have the report of the Committee on Resolutions.

JUDGE NOONAN: The following resolutions are reported for consideration by the Committee on Resolutions:

It resolved:

That we recommend that before any person is placed on probation there should be made a thorough investigation of the facts and circumstances in the case, unless the judge placing such person on probation has already a personal knowledge of the facts and circumstances of the case.

That it is the sense of this conference that there should be at least one probation officer in every magistrate's court one or more probation officers.

That it is the sense of this conference that a representative office of the district attorney of the county should be available for service in every magistrate's court.

That in the treatment of cases of prostitution we do not favor the imposition of fines when other methods of punishment are available.

That the special Committee on Constitutional Convention created at the last conference of the Association be continued under the name of the Committee on Constitutional Amendments for the ensuing year.

That we commend Judge George C. Appell, President of the Association, Judge Edward J. Dooley, Vice-President, Charles L. ... Secretary, and the members of the Executive and special committees for their effective services to the Association during the past year; we rejoice in the progress that has been made during

III.

That we thank Hon. Louis Marshall, Judge Arthur S. Thompson and Hon. Job E. Hedges for their splendid addresses at the dinner of this conference. We also appreciate the time and thought given by all the speakers on the program to the topics presented to them;

8. That we appreciate the efforts of Chief Magistrate William McAdoo and his assistants in working for the success of this conference.

9. That we thank the M. A. Gunst Co., Inc., and Mr. Elmer Lyon of Mount Vernon for their generous gift of cigars furnished for the annual dinner.

10. That we appreciate all the courtesies extended to the conference by the Hotel Astor.

JUDGE NOONAN: I move the adoption of these resolutions.

JUDGE SIMMS: I second the motion and move to amend that the secretary be requested to send to Mr. Muschenheim, manager of the Hotel Astor, and to Mr. Lyon and the M. A. Gunst Co. letters of thanks.

PRESIDENT APPELL: Those in favor say aye; opposed, no. It is carried.

The Committee on Nominations will now report.

JUDGE PIPER: The committee would respectfully report that we suggest for president, Judge Edward J. Dooley of Brooklyn; vice-president, Judge Thomas H. Noonan of Buffalo; secretary-treasurer, Charles L. Chute of Albany; executive committee: Judge George C. Appell of Mt. Vernon, Judge Norman J. Marsh of New York city, and Judge Charles C. Chappell of Goshen.

PRESIDENT APPELL: You have heard the report of this committee. Those in favor of the adoption of this report will signify it by saying aye; opposed, no. It is so ordered. I will ask the chairman of the Nominating Committee to escort the new president to the chair.

PRESIDENT DOOLEY: I desire to express my thanks for the honor conferred upon me. I know this Association can do a great deal of good; it has done so. It is through the efforts of this Association, as indicated by Judge Noonan, that several amendments to the Constitution were put in the proposed Constitution, which, however, failed of passage. We know of the work of the

tee of which Judge Wilkin is chairman. We know also of the efforts of Judge Collins' committee to draft and amend the law to deal with the drug evil. So I say this is an Association which can do a great deal of good for the magistrates' courts and for the improvement of law throughout the State.

Thank you for the consideration shown me and I will try to do the best I can this coming year.

PRESIDENT NOONAN: I sincerely appreciate this honor. I have taken a lot of interest in all these magistrates' conventions. I have had more than my share of honor and if anything I have been aided in the work that we are trying to do I am glad of it. I appreciate very much this token of your confidence.

PRESIDENT DOOLEY: I will name the following committees for the coming year:

Committee on Legislation: John J. Brady, Police Justice, Buffalo; Benjamin J. Shove, Justice, Court Special Sessions, Buffalo; Cornelius E. Collins, Justice, Children's Court, New York City; Charles H. Piper, Police Justice, Niagara Falls; Fred W. Winer, Police Justice, Medina.

Committee on Constitutional Amendments (continued): H. Noonan, City Judge, Buffalo; John J. Brady, Police Justice, Albany; Robert J. Wilkin, Justice, Children's Court, New York City; Benjamin J. Shove, Justice, Court Special Sessions, Syracuse; Frank S. Baker, City Judge, Rome; Charles W. Appell, Police Justice, Goshen.

Committee on Training School for Girls—Eastern Branch: Robert J. Wilkin, Justice, Children's Court, Brooklyn; John J. Brady, Police Justice, Albany; Charles E. Simms, City Magistrate, New York City; George E. Judge, Judge, Children's Court, Buffalo.

Committee on Training School for Girls—Western Branch: George E. Judge, Judge, Children's Court, Buffalo; Willis K. Kenyon, Police Justice, Rochester; Benn Kenyon, Recorder, New York City; Robert J. Wilkin, Justice, Children's Court, New York City.

Committee on the Drug Evil (continued): Cornelius F. Collins, Justice, Children's Court, New York City; John J. Brady, Police Justice, Albany; Benjamin J. Shove, Justice, Court Special Sessions, Syracuse; George L. Hager, City Judge, Buffalo; Charles E. Simms, City Magistrate, New York City.

If there is no further business, this conference stands adjourned.

BY-LAWS

December 10, 1910; amended December 9, 1911, and December 7,

PREAMBLE

York State Association of Magistrates is formed to promote an exchange of ideas and experiences concerning the work of courts of inferior jurisdiction and children's courts; to develop a consensus of opinion on the wisest methods and most desirable improvements in such courts, and to promote appropriate legislation.

1. **NAME.**—The name of this organization shall be the New York Association of Magistrates.

2. **MEMBERSHIP.**—All magistrates and magistrates-elect of courts of criminal jurisdiction in cities and in villages, and all magistrates-elect or appointed of children's courts shall become members by filing their names with the secretary; and other persons especially interested in the work of such courts may become members upon being elected to the executive committee. The executive committee, in its discretion, may collect an annual membership fee of not exceeding one dollar, but there shall be no other assessments.*

3. **OFFICERS AND COMMITTEES.**—There shall be a president, a vice-president and a secretary-treasurer, who shall be elected at the annual meeting and shall serve until the next annual meeting. The duties of these officers shall be those generally required of such officers.

The president, vice-president, and secretary-treasurer, together with three members to be elected at the annual meeting, shall constitute an executive committee. At least one member of the executive committee shall be a magistrate of a city of the first class; at least one a magistrate of a city of the second or third class; and at least one magistrate of a village.

The executive committee shall have general charge of the affairs of the association between meetings; shall choose the time and place, and make arrangements for the annual meeting; and shall consider any bills that may be introduced into the Legislature affecting the work of courts of inferior jurisdiction or children's courts, but it shall have no power to act on behalf of the association in approving or disapproving proposed legislation unless authorized so to do by the preceding annual meeting, or by vote of the members taken by mail as provided by Article 4.

Decisions among the officers or other members of the executive committee shall be determined by vote of that committee.

4. **MISCELLANEOUS.**—Whenever a vote is taken on any special resolution by mail between meetings the secretary shall mail a copy of the proposition, together with a request for a vote, to each member at least ten days before the votes are to be counted, and a majority of those voting shall control the vote.

By-laws may be amended by a majority vote at an annual meeting, or by a majority vote taken by mail.

The Rules of Order shall be the parliamentary authority in matters not provided for by these by-laws.

* It has never been necessary to require any fee.

**Partial List of Persons Attending Conference of Magistrates in New York
City, January 21 and 22, 1916**

Hon. George C. Appell, City Judge, Mount Vernon.
Hon. J. Wesley Barker, Police Justice, Peekskill.
Hon. Joseph H. Beall, City Judge, Yonkers.
Mr. Paul L. Blakely, Associate Editor "America," New York City.
Hon. John J. Brady, Police Justice, Albany.
Hon. Edmond J. Butler, State Probation Commissioner, New York City.
Hon. Alexander J. Byrne, Police Justice, Seneca Falls.
Hon. Peter Cantline, Recorder, Newburgh.
Hon. Charles C. Chappell, Police Justice, Goshen.
Mr. Charles L. Chute, Secretary, State Probation Commission, Albany.
Hon. W. Bruce Cobb, City Magistrate, New York City.
Hon. William S. Coffey, Assemblyman, Mount Vernon.
Hon. Cornelius F. Collins, Justice, Children's Court, New York City.
Hon. Joseph E. Corrigan, City Magistrate, New York City.
Hon. Robert C. Cornell, City Magistrate, New York City.
Hon. Rosslyn M. Cox, Mayor of Middletown.
Hon. George S. Ditmars, City Judge, Geneva.
Mr. William F. Delaney, Clerk, Magistrates' Courts, Brooklyn.
Hon. Charles J. Dodd, City Magistrate, Brooklyn.
Hon. Edward J. Dooley, City Magistrate, Brooklyn.
Mr. George Everson, Criminal Courts Committee, New York City.
Hon. Charles B. Fisher, Police Justice, Spring Valley.
Hon. Joseph Fitch, City Magistrate, Brooklyn.
Mr. Daniel F. Fogerty, Deputy Clerk, Children's Court, Brooklyn.
Hon. Harold E. Fritts, City Judge, Hudson.
Hon. Alexander H. Geismar, City Magistrate, Brooklyn.
Hon. Walter S. Gedney, Police Justice, Nyack.
Hon. Willis K. Gillette, Police Justice, Rochester.
Hon. Frederick J. Groehl, City Magistrate, New York City.
Hon. H. S. Hart, City Judge, Binghamton.
Hon. Job E. Hedges, New York City.
Mr. Frederick C. Helbing, Chief Parole Officer, Randall's Island, New York
City.
Hon. Joseph Hopkins, Special City Judge, Utica.
Hon. Walter I. Hover, City Recorder, Amsterdam.
Hon. Ferdinand H. Hoyt, City Judge, Beacon.
Hon. George W. Irmisch, Justice of the Peace, Lindenhurst.
Hon. Benn Kenyon, City Recorder, Auburn.
Hon. Frederick Kernochan, Justice, Court of Special Sessions, New York
City.
Mr. Hugh Knowlton, Criminal Courts Committee, New York City.
Hon. Morris Koenig, Justice, Court of Special Sessions, New York City.
Hon. Andrew J. Lang, City Recorder, Kingston.
Hon. John A. Leach, City Magistrate, New York City.
Dr. O. F. Lewis, Secretary, Prison Association, New York City.
Hon. Burdette G. Lewis, Commissioner of Correction, New York City.
Mr. John D. Lynn, Assistant Secretary, State Probation Commission, Albany.

McAdoo, Chief City Magistrate, New York City.
C. McKee, Clerk, Children's Court, Brooklyn.
Marquand, State Probation Commissioner, Bedford Hills.
X. McQuade, City Magistrate, New York City.
J. Marsh, City Magistrate, New York City.
Marshall, New York City.
E. Moore, Police Justice, Pleasantville.
B. Moorhouse, Police Justice, Tarrytown.
McMullen, Police Justice, Schenectady.
A. Munger, Chief Clerk, State Probation Commission, Albany.
P. Nash, City Magistrate, Brooklyn.
B. Newina, New York City.
L. Niven, Justice of the Peace, Monticello.
H. Noonan, City Judge, Buffalo.
J. O'Keefe, City Judge, Canandaigua.
Oliver, Chief Clerk, Magistrates' Court, New York City.
C. Olsen, Police Justice, Bronxville.
Overocker, City Judge, Poughkeepsie.
H. Piper, Police Justice, Niagara Falls.
J. Shove, Justice, Court of Special Sessions, Syracuse.
Shove, City Judge, Oneonta.
E. Simms, City Magistrate, New York City.
Skinner, Police Justice, Medina.
H. Sommer, Acting City Judge, Mount Vernon.
S. Tompkins, Justice, Supreme Court, Nyack.
W. Towne, Superintendent, S. P. C. C., Brooklyn.
Travis, Jr., Police Justice, Peekskill.
Valentine, Police Justice, Ossining.
T. Wadsworth, Police Justice, South Nyack.
H. Warner, Superintendent, Westchester County S. P. C. C.,
Yonkers.
J. Wilkin, Justice, Children's Court, Brooklyn.
G. Wilson, Supervising Clerk, Magistrates' Courts, New York
City.

APPENDIX F

A RE-STUDY OF MEN PLACED ON PROBATION TO THE ERIE COUNTY PROBATION OFFICE DURING THE MONTH OF OCTOBER, 1912, SHOWING THE RESULTS AFTER DISCHARGE FROM PROBATION

THE CASES STUDIED

The Seventh annual report of the Commission for 1913, beginning on page 344, there appeared a detailed probation history of 28 cases, 28 in number, placed on probation to the Erie County Probation Office during the month of October, 1912. The study was completed in December, 1913, and at that time the following results were reported by the office:

Classification	Number	Percentage
Discharged with improvement.....	19	67.85
Continued on probation	3	10.71
Arrested and committed	4	14.30
Ordered to remove to other locality.....	1	3.57
Ordered to enter United States Navy.....	1	3.57
	28	100.00
	28	100.00

During the months of August and September, 1915, a careful investigation under the supervision of Chief Probation Officer Edwin J. Cooley was made in each of these cases, 22 in number, previously reported as discharged with improvement or continued on probation. An endeavor was made to ascertain the facts as to the present home condition, employment and status of each of these probationers. In the cases of those previously reported as discharged with improvement, the minimum time after discharge from probation had been one year and six months. Of the three who were being continued on probation at the time of the first survey, one had just been discharged when the last investigation was completed. The other two had been discharged six months. Two years and ten months had elapsed in all cases since they came under the care of the

office. It would seem, therefore, that a fairly accurate estimate of the results of probation could be obtained from this investigation.

Summarizing the results as far as they could be ascertained at the last investigation, in the entire 28 cases placed on probation during the month of October, 1912, the following results were reported:

In Cases Where Results Could be Judged.

Classification	Number	Percentage
Permanent improvement indicated.....	17	68.00
*Fair improvement indicated	2	8.00
**Rearrested and committed	5	20.00
Absconded	1	4.00
Total	25	100.00

In Cases Where Results Could Not be Judged.

Allowed to remove to another locality.....	1
Allowed to enter the United States Navy	1
Died	1
Total	3

Grand Total 28

The following is the table of results reported in all cases which completed their probation period and were regularly discharged, i. e., those in which the probation officers had a full opportunity to do constructive work throughout the probation period:

Classification	Number	Percentage
Permanent improvement indicated.....	17	81.00
Fair improvement indicated	2	9.50
Rearrested and committed	1	4.75
Died	1	4.75
Total	21	100.00

*One rearrested—petit larceny—sentence suspended. (Circumstances trivial.)

**Only one rearrested and committed after discharge from probation—burglary—Elmira Reformatory.

It would seem that the results of this investigation confirm the findings of the Commission that when the probation work is efficient, a large majority of probation cases ultimately make good. The fact that of all cases placed during a given period, 68 per cent. were found permanently reformed and an additional 8 per cent. showed fair improvement is another proof that probation when thoroughly applied

is followed herewith a summary of the principal facts as in each of the cases investigated:

CASE 1

Farwell ———.

Age, 29 years.

State, married.

Reason, abandonment.

Placed on probation, October, 1912.

Previous court record, September 19, 1912; non-support; placed on probation, City Court of Buffalo.

Discharged with improvement, December, 1913.

Drinking to excess and gambling caused this defendant to desert his home. At the time of his discharge from probation, the home was re-established, defendant had an excellent position, was reformed in his habits and had formed good associations.

Present Conditions, Date of Survey, August, 1915

Present, defendant is earning \$18 weekly in the employ of an industrial concern. His wages have been raised three times. His wife reports that her married life for the past year and a half has been extremely happy. The family is well clothed and their home bears evidence of good living conditions. A neighbor, employer, neighbors and others state that defendant has become industrious and thrifty and has shown marked improvement in his personal habits and especially in his attitude towards his family. Since his discharge from probation he has had no court record and is insured in a well-known fraternal organization. No court

Probationary period.— One year, two months.

Time since discharge.— One year, eight months.

Result.— Conditions indicate permanent improvement.

CASE 2

Name, John _____.

Present age, 43 years.

Social state, married.

Offense, assault, 3rd degree.

Placed on probation, October, 1912.

Results, discharged with improvement, August, 1913.

Previous court record, April 15, 1912; assault third degree; fined \$5.

Drinking to excess caused this defendant's appearance before the Court. During his term of probation, he paid \$32 in reparation to the complainant. At the time of his discharge, he was working steadily, earning \$2.50 per day and paying for a home.

Present Conditions, Date of Survey, August, 1915

Since his release from probation, defendant has continued to improve himself. He is working steadily as a stone mason earning \$2.50 per day. He is well dressed and takes pride in his home and family. His children attend school regularly. He is a member of the Church in his neighborhood and some time ago had his life insured for \$500. His home is neat and comfortable. Police, neighbors and others interviewed, state he is a good and useful member of society. No court record.

Probationary period.— Eight and one-half months.

Period since discharge.— Two years.

Judgment.— Conditions indicate permanent improvement.

CASE 3

Name, Edwin _____.

Present age, 57 years.

Social state, single.

Offense, criminally receiving stolen property.

Placed on probation, October, 1912.

Results, discharged with improvement, December, 1913.

Previous court record, October, 1907, adultery; released on \$500 bail, left town, forfeiting same.

Defendant's delinquency consisted of his buying and disposing of stolen property at a considerable profit. He was the owner of

confectionery store and allowed a bad crowd of young men to
at his place. Upon his discharge from probation, he was
to a better trade and evidently had learned a wholesome

Present Conditions, Date of Survey, August, 1915

Defendant is still conducting the confectionery store in ques-
tion and his business has increased. According to reports from
himself and neighbors, defendant is carrying on his business in
a stable and orderly fashion. At the present time his profits
are about \$25 weekly. He resides with his sister and the
place is a comfortable one. He is temperate in his habits. No
criminal record.

Probationary period.— One year, two months.

Time since discharge.— One year, eight months.

Opinion.— Conditions indicate permanent improvement.

CASE 4

Name, Ernest _____.

Present age, 26 years.

Marital state, single.

Charge, petit larceny.

Placed on probation, October, 1912.

Term, discharged with improvement, December, 1913.

Criminal record, none.

Causes and bad associates caused this defendant's delin-

quency. When discharged from probation he had paid \$20 in
fines, was earning \$15 weekly, had saved a fair portion of
his earnings; habits and associates were improved and he was
contributing towards the support of his aged father.

Present Conditions, Date of Survey, August, 1915

Since his release from probation, defendant has continued to
lead a respectable life. He is holding the same position and is
earning \$15 weekly. He has saved \$150 and recently purchased
a home. His appearance is good and the police, his employer and

members of his family state his conduct has been most commendable. He still continues to contribute toward the support of his aged father. No court record.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Conditions indicate permanent improvement.

CASE 5

Name, Peter _____.

Present age, 22 years.

Social state, single.

Offense, assault, third degree.

Placed on probation, October, 1912.

Results, discharged with improvement, December, 1913.

Previous court record, none.

When released on probation, this defendant had been in this country but two years and had only received four months' schooling in the old country. He worked steadily while on probation earning \$12.50 weekly and paid \$75 in reparation to the complainant.

Present Conditions, Date of Survey, August, 1915

Defendant has continued to work regularly in a laboring capacity. He lived with his married sister in a good neighborhood. He earns \$13 weekly. Police, neighbors and sister speak well of him and state that his habits are good. He has saved his money and has a modest bank account at the present time. No court record.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Conditions indicate permanent improvement.

CASE 6

Name, Lawrence _____.

Present age, 24 years.

Social state, single.

Offense, assault, third degree.

Placed on probation, October, 1912.

Results, discharged with improvement, February, 1913.

Previous court record, August 26, 1912, assault third degree, six months Erie county penitentiary.

This defendant was sentenced to the penitentiary for six months. After serving five weeks, he was released on probation. Drinking to excess was his main trouble. On probation, he became more temperate in his habits, worked steadily as a chauffeur, earning \$12 weekly and formed better associates.

Present Conditions, Date of Survey, August, 1915

During the past year and one-half, since his discharge, defendant has remained steadily employed. At present he is working as a chauffeur for a large produce company and earns \$16 weekly. His employer speaks highly of him. He is temperate in his habits and contributes part of his earnings at home. He has formed better associates. No court record.

Probationary period.— Five months.

Period since discharge.— Two years, six months.

Judgment.— Conditions indicate permanent improvement.

CASE 7

Name, Kaiser ———.

Present age, 51 years.

Social state, married.

Offense, grand larceny, second degree.

Placed on probation, October, 1912.

Results, discharged with improvement, December, 1913.

Previous court record, none.

Intemperance occasioned this defendant's downfall. While on probation he led a more temperate life and desirable employment was found for him. He paid \$125 in restitution to the complainant and at the time of his discharge from probation was contributing towards the support of his family.

Present Conditions, Date of Survey, August, 1915

Defendant is still holding the same position; that of assistant foreman in the Department of Public Works. He earns \$15

weekly and is well thought of by his employer. He attends church regularly and is a member of the church choir. His home life bears every evidence of being a happy one. Police, neighbors and members of his family state that he has rehabilitated himself in a most satisfactory manner. No court record.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Conditions indicate permanent improvement.

CASE 8

Name, Elmer ———.

Present age, 22 years.

Social state, single.

Offense, assault, third degree.

Placed on probation, October, 1912.

Results, discharged with improvement, December, 1913.

Previous court record, none.

Prior to being placed on probation, this defendant had been in trouble on several occasions and bore a bad reputation. On probation, he paid \$40 in restitution in weekly installments of \$1. He worked regularly for his father, who is in the carting business and earned \$12 weekly.

Present Conditions, Date of Survey, August, 1915

Defendant has continued to work for his father and for about a year past has taken charge of the entire business. His earnings at present average \$25 to \$30 weekly. Recently his father bid on a contract amounting to about thirty thousand dollars and should the contract be awarded to the firm, defendant will supervise its operation. During the past two years defendant has saved \$600. In addition he has purchased a small automobile. He lives at home with his people — his habits are good. In several instances he has sought to assist former companions who have shown tendencies to become involved in trouble. At the time of this interview, defendant offered to secure work for needy probationers. No court record.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Conditions indicate permanent improvement.

CASE 9

Name, Michael ———.

Present age, 26 years.

Social state, married.

Offense, grand larceny, second degree.

Placed on probation, October, 1912.

Results, discharged with improvement, December, 1913.

Previous court record, none.

Prior to defendant being placed on probation, he was an undesirable character. On probation he worked steadily, refrained absolutely from the use of intoxicants and avoided former associates. His family conditions were bettered as a result of his improved habits.

Present Conditions, Date of Survey, August, 1915,

Defendant has remained steadily employed at the same position and now earns \$20 weekly. He has been entrusted with important matters by his employer on numerous occasions and has always acted in an honorable manner. He has not used intoxicants in any form. His family has moved into a new home and are in a comfortable and contented state. The children are well dressed and attend school regularly. Defendant's employer cannot speak too highly of his improved conduct. No court record.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Conditions indicate permanent improvement.

CASE 10

Name, Charles ———.

Present age, 25 years.

Social state, single.

Offense, rape, second degree.

Placed on probation, October, 1912.

Results, discharged with improvement, March, 1913.

Previous court record, none.

During his term of probation, defendant paid \$125 in reparation to the complainant. He worked steadily earning fair wages.

Present Conditions, Date of Survey, August, 1915

For the past year, defendant has been employed in the stereotype room of a large newspaper learning the printing trade. His earnings are \$12.50 weekly. He has refrained entirely from the use of intoxicants and has avoided his former companions. Some time ago he took out a life insurance policy for \$1,000 and in other respects has shown a tendency to save his money. He contributes generously towards the support of his parents. No court record.

Probationary period.— Five months.

Period since discharge.— Two years, six months.

Judgment.— Conditions indicate permanent improvement.

CASE 11

Name, Anton ———.

Present age, 36 years.

Social state, married.

Offense, abandonment.

Placed on probation, October, 1912.

Results, discharged with improvement, September, 1915.

Previous court record, none.

Paid \$225 through probation office for support of family. Defendant worked industriously and earned good wages. Family reunited and living happily together. Twenty-seven dollars and forty cents representing expenses incurred in defendant's arrest ordered paid by the court, has not been received.

Present Conditions, Date of Survey, September, 1915

Defendant living with his wife and children in Altoona, Pa. He is working on a farm and earns about \$1.75 per day. Reports regularly by letter. Have had his conditions investigated by the

tendent of Police and the captain of the Pennsylvania
l police. Reports are satisfactory. To date, defendant
n unable to pay \$27.40 in restitution to the county of Erie.
real purposes of probation have been accomplished in this
The family have been reunited and defendant's character
bits have been improved. It appeared that requiring the
ant to reimburse the county for expenses incurred would
unwarranted hardship on the family. On the above stated
s, therefore, application was made to the county judge on
ber 16, 1915, for a suspension of the order requiring
ant to reimburse the county and requesting his discharge
robation. The order was granted. Case reported to the
Probation Commission in September, 1915, as discharged
improvement.

ationary period.— Two years, eleven months.

gment.— Conditions indicate permanent improvement.

CASE 12

ie, Louis ———.

sent age, 30 years.

al state, married.

nse, grand larceny, first degree.

ed on probation, October, 1912.

alts, discharged with improvement, December, 1913.

vious court record, December 21, 1911, driving auto without
ee, fined \$5.

associations combined with intemperance were the primary
of this defendant's delinquency. On probation he worked
ly and contributed his earnings at home. He formed better
nions and led a more temperate life.

Present Conditions, Date of Survey, August, 1915

endant has continued to do well. For the past year and
lf he has worked steadily as a chauffeur for one of the city's
cent business men and earns \$75 monthly. Recently he
the examination for policeman and was successful in both

physical and mental tests. His appointment is but a question of time. His employer, neighbors and members of his family claim that defendant has developed into a self-respecting and conscientious individual. No court record.

Probationary period.—One year, two months.

Period since discharge.—One year, eight months.

Judgment.—Conditions indicate permanent improvement.

CASE 13

Name, Henry ———.

Present age, 22 years.

Social state, single.

Offense, petit larceny.

Placed on probation, October, 1912.

Results, absconded, March, 1915.

Previous court record: October 21, 1914.—Juvenile delinquency (petit larceny), sentence suspended; October 18, 1905.—Juvenile delinquency (petit larceny), sentence suspended.

Defendant did well for the first seven months while being on probation. He worked steadily and contributed \$11 of the \$20 restitution ordered. With permission he moved with his mother to a suburban town where she had purchased a small farm. In May, he failed to report and nothing was heard from him until two months later when a letter was received in which he promised to report and pay the balance of the restitution. He failed to do this, however, and active investigation has failed to discover his whereabouts.

Present Conditions, Date of Survey, September, 1915

Defendant was classified as absconded and reported to the State Probation Commission in March, 1915. Nothing definite has been heard of him since September 2, 1914. At that time he was working as a huckster throughout western New York. It can be seen plainly that defendant's violation of probation is not of a very serious character.

Probationary period.—Two years, five months.

Period since discharge.—Six months.

Judgment.—Absconded.

CASE 14

William _____.

Age, 29 years.

State, married.

Charge, criminally receiving stolen property.

On probation, October, 1912.

Discharged with improvement, December, 1913.

Court record, none.

Since defendant's release on probation he conducted a saloon of a better character. The character of his place improved while on probation and defendant refrained from the use of intoxicants. He managed his money and treated his wife in a more considerate

Present Conditions, Date of Survey, August, 1915

Defendant is now conducting a respectable saloon in a better part of this city. He earns from \$75 to \$100 monthly and has a few hundred dollars in the bank. Defendant's wife states that his life is a happy one and that his conduct has improved to a great degree. The police and others who have known him, praise his improved conduct and especially to the improved character of his place of business. No court record.

Probationary period.— One year, two months.

Time since discharge.— One year, eight months.

Opinion.— Conditions indicate permanent improvement.

CASE 15

William _____.

Age, 29 years.

State, married.

Charge, abandonment.

On probation, October, 1912.

Discharged with improvement, December, 1913.

Court record, none.

Since discharged from probation, defendant was leading a temperate life, working steadily and providing a proper maintenance for his family. The case had been a most difficult one.

Present Conditions, Date of Survey, August, 1915

Defendant has continued his good conduct and at the present time is employed in the capacity of foreman earning \$23 weekly. His personal appearance has improved generally and he has developed into a thrifty and sober character. He has a modest bank account and a few months ago invested \$250 in real estate. Although not living with his family, defendant continues to provide toward their support in an adequate manner. No court record.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Conditions indicate permanent improvement.

CASE 16

Name, John ———.

Present age, 20 years.

Social state, single.

Offense, petit larceny.

Placed on probation, October, 1912.

Results, discharged without improvement, March, 1915.

Previous court record, none.

This defendant's father was dead and his mother was a loose character. Defendant did very well for a while and paid \$12 in small installments of \$38 restitution ordered. After being on probation a little over a year, the defendant left the city without permission. Diligent investigation indicated that he had gone to work on the Great Lakes.

Present Conditions, Date of Survey, September, 1915

Defendant returned to the city on May 1, 1914. He was broken down in health and without funds. We assisted him and finally succeeded in getting him started again. He paid \$11 more in restitution. On February 26, 1915, the boy was convicted of disorderly conduct in city court and received ten days in the penitentiary. He left town after his release and was not heard of again until June 2, 1915. On this day, a letter was received from

Marathon City, Wisconsin, in which he promised to pay the \$15 remaining in restitution. He also stated he was working on a farm and he requested forgiveness for leaving the city without permission. On June 8, 1915, a money order was received for \$15 which completed his restitution in full.

In March, 1915, two years and five months after defendant was placed on probation, he was reported to the State Probation Commission as discharged without improvement. It might be inferred that this classification at that time was not accurate in the light of subsequent conditions. The fact that this defendant volunteered his whereabouts and paid the balance of the restitution must certainly weigh heavily in his favor.

Probationary period.—Two years, five months.

Period since discharge.—Six months.

Judgment.—Conditions indicate permanent improvement.

CASE 17

Name, Edward ———.

Present age, 33 years.

Social state, married.

Offense, criminally receiving stolen property.

Placed on probation, October, 1912.

Results, discharged with improvement, December, 1913.

Previous court record, none.

Prior to defendant's release on probation, he had been drinking heavily and associating with undesirable companions. His wife was rather a frivolous person and the welfare of their eight-year-old child was in jeopardy. On probation defendant worked steadily, contributed a greater portion of his earnings at home and was more temperate in his habits. His wife improved her personal habits and home conditions were considerably improved. The child was subjected to better supervision.

Present Conditions, Date of Survey, August, 1915

At the time of the man's release, he was employed as a railroad switchman earning about \$80 monthly. Two weeks after his

release from probation he was taken ill with pneumonia and died within a few days. His wife and child are, at present, living with her mother.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Died.

CASE 18

Name, Michael ———.

Present age, 47 years.

Social state, married.

Offense, assault, third degree.

Placed on probation, October, 1912.

Results, discharged with improvement, December, 1913.

Previous court record: April, 1905, assault, third degree, discharged; March, 1912, assault third degree, sentence suspended.

Prior to his release on probation, defendant had been arrested on numerous occasions and used alcohol to excess. His home conditions were very turbulent. On probation defendant refrained almost entirely from the use of intoxicants. He worked steadily, earning between \$50 and \$75 monthly. His family conditions improved.

Present Conditions, Date of Survey, August, 1915

Defendant still continues in the same employment earning about the same wages and contributes the greater portion of them towards the family support. He is temperate in his habits and spends most of his time at home with his family. The police, neighbors and relatives state that his habits have improved considerably and his family has benefited thereby. No court record.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Conditions show fair improvement.

CASE 19

Name, Joseph ———.

Present age, 24 years.

Social state, single.

ense, burglary, third degree.

aced on probation, October, 1912.

vious court record: May 16, 1905, juvenile delinquency (larceny); State Industrial School, 13 months.

ults, discharged with improvement, December, 1913.

the time of his discharge from probation, defendant was ng steadily and assisting his people to improve conditions at . He led a more temperate life and had improved his ations.

Present Conditions, Date of Survey, August, 1915

nce his discharge from probation, defendant has worked ily. He is at present working for a large industrial concern ng \$14 weekly. This is an increase of \$1.50 per week over ages at the time of his discharge from probation. Defendant arrested last February for petit larceny with several others. circumstances were trivial, however, and sentence was sus- ed in his case. On the whole, however, the police, members of amily and neighbors report that he has been leading a fairly table life. He recently had his life insured and expects to arried very shortly.

robationary period.—One year, two months.

period since discharge.—One year, eight months.

dgment.—Conditions indicate a fair improvement.

CASE 20

ame, Lawrence ———.

resent age, 30 years.

cial state, married.

ense, burglary, third degree.

aced on probation, October, 1912.

esults, discharged with improvement, December, 1913.

previous court record, none.

hile on probation defendant worked steadily and provided a r maintenance for his family. Better companionships and harmful amusements took the place of his former mode of ation. He had previously been a heavy drinker but was ced to lead a more temperate life.

Present Conditions, Date of Survey, August, 1915

Defendant has worked steadily. At the present time he is employed earning \$14 weekly. He has taken excellent care of his family and his home is very well furnished. Recently defendant joined a well-known fraternal organization in which he is insured for \$1,000. He has also insured the life of his wife and five children. Neighbors, police and business men in his neighborhood testify as to his improved conduct. No court record.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Conditions indicate permanent improvement.

CASE 21

Name, Frank _____.

Present age, 26 years.

Social state, single.

Offense, grand larceny, 1st degree.

Placed on probation, October, 1912.

Results, discharged with improvement, December, 1913.

Previous court record: October 11, 1909, attempted robbery, 1st degree, indictment dismissed.

Defendant was a very undesirable charter prior to being placed on probation. Home conditions were not of the best. While on probation, wholesome employment was secured for him and he was made to work steadily. Home conditions were improved. At the time of his release, he was working as a chauffeur earning \$18 weekly.

Present Conditions, Date of Survey, August, 1915

For the past year and one-half defendant has been employed as a chauffeur earning 18 weekly. His habits are good. He attends church regularly and expects to be married shortly. He has saved about \$200 for the purposes of his marriage. His employer states he is efficient and energetic at his work. No court record.

Probationary period.— One year, two months.

Period since discharge.— One year, eight months.

Judgment.— Conditions indicate permanent improvement.

CASE 22

me, Clarence ———.

Present age, 24 years.

Marital state, single.

Offense, grand larceny, 1st degree.

Placed on probation, October, 1912.

Results, discharged with improvement, December, 1913.

Previous court record, October 11, 1909, attempted robbery, 1st

degree, indictment dismissed.

Defendant prior to being placed on probation was a member of a bad crowd of young men. Although his widowed mother was dependent upon him for support, he contributed practically nothing towards her maintenance. On probation he worked steadily earning \$12 weekly. He paid \$27.10 from his earnings in restitution. He contributed a portion of his earnings toward the support of his mother.

Present Conditions, Date of Survey, August, 1915

Shortly after his release from probation, defendant lost his position and during a few months' idleness lapsed into his former habits. He was subsequently arrested on the charge of burglary and committed to the reformatory at Elmira, N. Y.

Probationary period.—One year, two months.

Period since discharge.—One year, eight months.

Judgment.—Rearrested and committed.

APPENDIX G

INDEX OF ALL STATUTES RELATING TO PROBATION, JUVENILE COURTS, ADULT CONTRIBUTORY DELINQUENCY AND JUVENILE HOMES, ENACTED DURING 1915

*Eighth Annual report of the Commission (for 1914) con-
taining citations of all of the above statutes enacted up to January 1,*

ALABAMA:

ALABAMA ACTS.

498. Probation in cases of desertion and non-support by husbands
and parents; appointment of probation officers, their duties
and powers; penalty of violation of probation (on page 560).

506. Juvenile courts and probation. Amends Laws of 1907, p. 390
(on page 577).

ALABAMA ACTS.

110. Juvenile detention homes in Mobile County; appointment of
officers; under control of juvenile court commission of the
county (on page 30).

128. Juvenile court and probation in Mobile County; jurisdiction
and powers of court; appointment of salaried probation
officers; appointment of unsalaried juvenile court commis-
sion (page 115).

261. Juvenile court and probation in Jefferson County. Amends
Laws of 1911 (on page 268).

ARIZONA:

631. Juvenile courts and probation. Repeals 1909, ch. 133 and sub-
sequent amendments.

CONNECTICUT:

56. Payment of fines by probationers; manner of payment. Amends
1905, ch. 142, sec. 4.

64. Appointment of probation officers; duties. Amends 1905, ch.
142, sec. 5.

DELAWARE:

671. Juvenile court of Wilmington; distribution of fines collected.
Amends Laws of 1911, ch. 262.

FLORIDA:

6841. Detention homes and schools for delinquent children may be
established in any county.

6906. Adult contributory delinquency.

6910. Appointment of probation officers in counties of 60,000;
compensation.

GEORGIA:

- No. 210. Juvenile courts and probation in counties over 60,000; appointment of salaried probation officers; duties, powers and compensation; procedure; detention homes; adult contributory delinquency.

IDAHO:

- Ch. 83. Punishment for desertion and non-support of husbands and parents. Amends Rev. codes, sections 6781 and 6782 as enacted by Laws of 1907, ch. 303.
- Ch. 104. Probation in cases of persons under 25 years of age; to be in charge of probation officers of the juvenile court; penalty for violation of probation.
- Ch. 135. Mothers pensions.

ILLINOIS:

- Page 369. Adult contributory delinquency. Repeals Laws of 1905, p. 189.
- Page 378. Probation system. Amends Laws of 1911, p. 277, sections 2, 3, 4, 7, 9, 12, 13 and 14.
- Page 470. Abandonment of wife or children made a misdemeanor; release of defendant on probation.

INDIANA:

- Ch. 73. Non-support of wife or children; penalty; suspension of sentence and probation. Supplements Laws of 1913, ch. 325 (abandonment of children by parent).
- Ch. 77. Attendance officer to act as probation officer in counties under 25,000 where no probation officer has been appointed.
- Ch. 179. Desertion of wife or children; penalty. Amends Laws of 1913, ch. 325 (abandonment of children by parents) sec. 2.

IOWA:

- Senate File 560. Juvenile courts; detention homes and schools; procedure. Amends code, sections 254-a, 15, 16 and 20.
- Senate File 16. Juvenile courts; detention homes and schools; medical attention for indigent children brought before the court. Amends code, sec. 254 by adding sections 254-b to 254-l.

MAINE:

- Ch. 27. Appointment of assistant probation officer for county of Cumberland; compensation and duties. Amends Laws of 1905, Private and Special Laws, sections 1 and 3.

MASSACHUSETTS:

- Ch. 254. Appointment of assistant probation officers in certain courts outside of the city of Boston.

MICHIGAN:

- No. 308. Treatment and control of neglected and delinquent children; jurisdiction of probate court and the powers of probate judge; appointment of probation officers; detention rooms. Amends Laws of 1907, No. 6, sections 1, 3, 5, 6 and 7, as amended by Laws of 1909, No. 310; 1911, No. 262, 1913, Nos. 228 and 363 and adds new section 12-a.

MINNESOTA:

Ch. 3. Detention homes may be established in counties of 200,000 to 300,000 population.

Ch. 228. Establishing detention homes for Hennepin County; woman probation officer to be appointed as matron.

MONTANA:

Ch. 52. Juvenile courts and probation. Amends Laws of 1911, ch. 122, sec. 14.

NEBRASKA:

Ch. 24. Appointment of probation officers for juvenile court. Amends and repeals section 1249, R. S. of 1913.

Ch. 168. Appointment of probation officers for all courts of record; salary; suspension of sentence; transfer of probationers to another county. Amends and repeals sections 9145, 9149 and 9151, R. S. of 1913.

NEW HAMPSHIRE:

Ch. 30. Appointment of probation officers in towns not having a municipal court.

Ch. 96. Juvenile court proceedings not to be published by newspapers. Amends Laws of 1907, ch. 125, sec. 3.

NEW JERSEY:

Ch. 246. Welfare of children; probation.

NORTH CAROLINA:

Ch. 222. Juvenile delinquents; care, reformation and training; appointment of salaried probation officers.

NORTH DAKOTA:

Ch. 179. Juvenile court; appointment of District Juvenile Commissioner. Amends Laws of 1911, ch. 177.

OHIO:

Page 458. Definition of delinquent and dependent children. Amends section 1644 and 1645, General Code.

OKLAHOMA:

Ch. 111. Repeals sec. 4420; Revised Laws providing for appointment of salaried probation officers.

Ch. 149. Abandonment of wife or child; punishment; probation.

OREGON:

Ch. 90. Mothers pensions. Amends Laws of 1913, ch. 42, sections 1, 2, 5 and 10.

Ch. 147. Juvenile courts in all counties. Amends sections 4407 and 4408, as amended by Laws of 1913, ch. 249, section 1, of Lord's Oregon Laws.

PENNSYLVANIA:

No. 183. Care of neglected and delinquent children; provides for board of children committed. Amends Laws of 1903, No. 205, section 6 as amended by Laws of 1913, No. 469.

No. 428. Salaries of probation officers of the courts of Philadelphia. Amends Laws of 1913, No. 399, sections 4 and 9.

RHODE ISLAND:

Ch. 1185. Juvenile courts in district courts; procedure; probation; detention quarters; State probation officer to assign probation officers for service in juvenile courts; compensation of such officers; volunteer deputy probation officers to be appointed.

SOUTH DAKOTA:

Ch. 119. Juvenile courts and probation in each county; procedure; volunteer probation officers to be appointed. Repeals Laws of 1903, ch. 89; and Laws of 1909, ch. 298.

TENNESSEE:

Ch. 135. Suspension of sentence in felony cases where a plea of guilty has been received; release of defendant on parole.

VERMONT:

No. 92. Juvenile courts and probation. Amends Laws of 1912, No. 113.

No. 101. Probation in cases of desertion of wife or child.

No. 174. Continuation of probation in cases of intoxicated persons. Amends Laws of 1912, No. 200.

VIRGINIA:

Ch. 114. Desertion of wife or child; probation; designation of police officers as probation officers.

WASHINGTON:

Ch. 135. Mothers pensions.

WEST VIRGINIA:

Ch. 70. Juvenile courts and probation; procedure; appointment of salaried probation officers; detention homes.

WISCONSIN:

Ch. 13. Probation in cases of minors guilty of a misdemeanor or of a felony for the first time. Amends sub-section 1 of section 4725-a of the Statutes.

WYOMING:

Ch. 25. Pensions for mothers and children.

Ch. 72. Desertion of wife or children; probation.

Ch. 99. Dependent and delinquent children; care of; State supervision.

ALASKA:

Ch. 46. Juvenile courts; when the court is to act. Amends Laws of 1913, ch. 32, sec. 9.

HAWAII:

Ch. 100. Desertion and non-support of wife and children; suspension of sentence.

PORTO RICO:

No. 37. Juvenile courts and probation in each district; procedure; appointment of volunteer probation officers; detention of children.

APPENDIX H

NEED FOR EQUITY JURISDICTION IN CHILDREN'S COURTS AND COURTS OF DOMESTIC RELATIONS

INTRODUCTION

Realizing the need for broadening the jurisdiction of children's courts and courts of domestic relations in this State by giving equity jurisdiction to such courts, the State Probation Commission, conferring with some of the leading experts of the country, through Judge A. T. Clearwater, a member of the Commission, presented to the Constitutional Convention of New York State in the following amendment:

"The Legislature may establish children's courts, and courts of domestic relations, as separate courts, or parts of existing courts or courts hereafter to be created, and may confer upon them such equity and other jurisdiction as may be necessary for the correction, protection, guardianship and disposition of delinquent, neglected or dependent minors, and for the punishment and correction of adults responsible for or contributing to such delinquency, neglect or dependency, and of all persons legally chargeable with the support of a wife or children who abandon or neglect to support either. In the exercise of such jurisdiction such courts may hear and determine such causes with or without a jury."

On June 29th a hearing on the above amendment was arranged before the Judiciary Committee. The Chairman of the committee, George W. Wickersham of New York, and the committee numbered among its members some of the most eminent constitutional lawyers in the State. The committee was addressed by President Folks and Vice-President Wade of this Commission, and Judge Julian W. Mack, Judge of the United States Circuit

Court of Appeals of Chicago. The address of Judge Mack was a notable one. It dealt with the fundamental purposes and needs of juvenile and domestic relations courts. This address had a great deal to do with the favorable action of the committee. The amendment was incorporated almost as presented in the final report of the Judiciary Committee and was adopted without change by the entire Convention.

Judge Mack's address in full follows.

NEED FOR EQUITY JURISDICTION IN CHILDREN'S COURTS AND COURTS OF DOMESTIC RELATIONS

HON. JULIAN W. MACK, JUDGE OF THE UNITED STATES CIRCUIT COURT OF APPEALS, FORMERLY JUDGE OF THE JUVENILE COURT OF CHICAGO.

The whole subject of juvenile and domestic relations courts is one that has arisen since your last Constitutional Convention. The first juvenile court in this country was established in Chicago in 1899, following the enactment of the Illinois Act, the first comprehensive juvenile court act.

Juvenile court laws have now been enacted in perhaps two-thirds of the States. In most of these States they have been passed upon by the highest court and in every instance the fundamental principle of the law has been sustained as in accordance with the Constitution. In the State of New York, if the Legislature were disposed to create juvenile courts or courts of domestic relations and to vest this jurisdiction in the Supreme Court,—the equivalent of our Circuit Court in Cook County where the jurisdiction is now vested with us—a Constitutional amendment would be unnecessary because your Supreme Court, like our Circuit Court, has full and complete jurisdiction in equity as well as in common law. But in New York, as in a number of other States, this jurisdiction has been vested, not in a court of general jurisdiction, but in the superior or local courts. In New York these courts have no equity jurisdiction and, therefore, your juvenile court legislation has not been legislation of an equitable nature, but a variation of the fundamental criminal jurisdiction and procedure.

The underlying principle of this legislation, which, as I have said, has been sustained as constitutional in every State in which the question has arisen, is this: That a child who has committed an offense, no matter what the nature of the offense may be—whether what we may call murder—should be dealt with by the law not as an adult is, merely to punish, but for the purpose of reformation, for the purpose of training, for the purpose of rehabilitation.

The underlying conception of our criminal law, despite all the reforming influences that have come in, is still that of vindication,

that the State must vindicate by punishing. This ought to be completely eliminated when we deal with children. If the child is deemed by the State unable to manage its own civil affairs, its contract and property rights, it ought not, either for its own good or for the good of society, to be dealt with as if he had full comprehension of the laws of the State and was, therefore, to be punished for a willful, or even in some instances an unwitting violation thereof.

It was believed that children could be saved the stigma of crime and criminality, and that children who were going the wrong way could be saved from the career that leads to the penitentiary, if they were taken in hand by the State when the parents were either unwilling or unable properly to take them in hand themselves. And so the State, acting in its higher capacity, as *parens patriae*, dealing with those children as its wards, because of the neglect or failure of the immediate guardians, the parents, to fully perform their duty, steps into the place of those parents, to a greater or less extent, and performs that parental duty, not of criminalizing but of saving, not of stigmatizing but of uplifting, educating and training to decent citizenship.

The thought was that if the State is to act in this parental way, if the child is not to be criminalized, if the stigma is to be removed so that the child could begin to recognize in the State his interest in it, for the child's sake and the State's sake, all the old vestiges of the criminal law ought to be eliminated if it is possible to do that. And it has been found possible to do it, because it is merely an extension of the old equitable jurisdiction of the High Court of Chancery in England over not merely the property but the person of the child, established by decisions in the House of Lords which have been continued in courts of equity in many of our States.

The child is brought in under a petition and a summons stating that it has done this, that or the other thing, and is in need of the care and protection of the State. The parents are summoned, notified and given an opportunity to be heard, because they are in danger of being deprived of their immediate parental right to the custody of the child, and so, of course, they have to be protected and given an opportunity to be heard in defense of that right.

hearing is anything but a criminal trial. The question for is not whether the child has done some specific thing, and, not, to go hence without any further care on the part of e, and, if it has, let it be punished; but the inquiry is: the child? What has it become? What is it tending to What are the surrounding influences? What is its com- nip? What are the hereditary influences that have been to bear upon it?

nnexion with the best juvenile courts we have medical ts; we have psychopathic institutes; and the physical and and, so far as possible, the psycopathic condition of the s determined and laid before the judge to assist him in his problem.

past of the child is investigated, the surroundings, the ment, the companionship is looked into, and all the facts sented to the judge to enable him to decide, as said before, ether the child has committed some specific crime but r, because of what that child has done, it is in need of the on or care of the State. If it is, that is given to it in many at ways — by admonition, by placing the child under pro- and with compulsion to report to a probation officer, or bation officer to go to the home of the child and represent rely the power but the care, the protecting interest of the n the child. Sometimes it is given a chance time and time sometimes the circumstances of the home are such that, for d of the child, it has to be taken away from its own home. mes this is done at once, sometimes after several trials.

is the general theory of Juvenile Court legislation. Because fact that you did not vest the jurisdiction in your Supreme because you invested it in your inferior courts, you in New have maintained the criminal jurisdiction. The problem the judge in the Children's Court in New York is the crimi- blem. You modify it in words. You passed a statute which at the child shall not be charged or convicted of any specific but of juvenile delinquency. Nevertheless, it is charged by the language of the criminal law, it is convicted by using guage of the criminal law.

You have removed in this State some of the stigmas that have attached to the criminal jurisdiction, some of the disabilities that follow the criminal. All of the ameliorative influences are excellent, and your Legislature has done the best that could be done, I believe, while adhering to the criminal law. But the best thought of the country is that the criminal court is not the forum in which to deal with children and their parents for most of the offenses. I do not mean to say there are not circumstances in which a child should not be dealt with, particularly a boy of sixteen or eighteen, in the criminal court. In all cases the power is left to the Juvenile Court to deal with the child, as in a criminal court.

In my judgment, the wise thing for a constitutional convention to do regarding a new and growing subject such as this, a subject that has grown up within the last sixteen years, is not to tie the hands of your Legislature for the next twenty years as to what particular court shall have jurisdiction in this kind of cases, and under what form that jurisdiction shall be exercised, but to enable the courts or the Legislature to follow what may be found to be best from the results obtained throughout the country where experiments of all kinds are now going on, and to enable your courts to adopt that form which is most generally approved by Legislatures and child welfare experts throughout the land, in fact, throughout the world, because our Juvenile Court legislation has been followed in most of the leading European countries and in Japan.

Still newer than the juvenile courts are the domestic relations courts. One of the important matters that comes before our courts is the question of the failure to support wife and children. These cases are frequently so aggravated that they must be dealt with under the law of crimes. Many a father and husband is such an unmitigated scoundrel and he ought to be punished, but many are not real criminals; they are not doing the right and square thing, it is true, and the question is: What is the best thing to do with men of that kind? Is it best to simply deal with them as criminals, punish them and send them to jail?

I am always reminded of the story of a little boy who was in the George Junior Republic; he made a great career there. He came from Boston; he was a newsboy. Every policeman in town

but he learned the lessons of the George Junior Republic back one Christmas holiday and found his brother-in-law working fellow, at home drunk, beating his wife, and of the boy. This chap went down and got the corner and said to him, "I want you to come up and referee (He learned that at the Republic.) The policeman came and did the job, the little boy giving his brother-in-law a fair fight with his fists; but he got his medicine. When he was asked afterwards he said, "What should I have done? I could have called for the police and had him arrested. But when he is all right; he is a good hard-working fellow; he loves his wife and children. If I had him arrested what would have

It would have taken every bit of manhood out of him and sent him to jail; and what would have happened to my sister and children? They would have become objects of charity. I learned the lesson that he needed. He is going to be decent. He is drunk again, he may go off, but the chances are that he will. At any rate, I saved my sister and her children from becoming paupers on the community this time."

Ought not the courts have the opportunity to deal with men in this analagous way, to say to a man like this, "We are going to stigmatize you as a criminal." Ought not the Legislature to have the power to say, we will enable the Domestic Relations Court to enter a decree that a man shall support his wife and children by paying so much weekly, and if he fails to do it, he will be treated with like a man who fails to pay alimony in a divorce proceeding through contempt proceedings? I believe that the Legislature should have the power to vest equity jurisdiction in any court in which these cases come up.

There are two essential matters in which the amendment offered by Mr. Clearwater and that advanced by Mr. Stimson differ: First, Mr. Stimson's bill deals with inferior and local courts exclusively, vesting in them jurisdiction of children's cases and of domestic relations cases in the inferior or local courts of the State. Assuming that the term local court does not include the County Court, and assuming that it does not, then under Mr. Stimson's amendment jurisdiction could be vested only in inferior courts. To

my mind that is tying the hands of the Legislature in a most dangerous way. No court of general jurisdiction is too high or too dignified and no judge is too able or too learned to sit in the Children's Court and to determine the fate of so many of the future citizens of the State.

Therefore I think it would be a terrific wrong to say to your Legislature that for the next twenty years they are forbidden to confer this jurisdiction on courts of general jurisdiction, and that it can be conferred only on the inferior courts, not courts of record, particularly if it is to be the broad equity jurisdiction that cannot be too broad to carry out fully the purposes of a Juvenile Court act.

Under Judge Clearwater's amendment the Legislature has absolutely free scope; it can confer jurisdiction upon the Supreme Court or on the inferior courts or on both; it can confer or continue your criminal jurisdiction; it can give equity jurisdiction; it can give the two together or separately.

Coming to the second point of difference between the amendments offered by Judge Clearwater and Mr. Stimson:

Some time after the Juvenile Court was established there was felt the need of supplementary legislation, generally denominated the Adult Contributory Delinquency Law. This law provides that the parent or any other adult who by willful acts, or by his willful neglect brings or helps to bring a child to a state of delinquency, so that it has to be dealt with by the courts, is himself subject to the jurisdiction of the court either for punishment or for correction.

Of course, some of these adult contributory acts are of such a serious nature that they can only be dealt with properly in a criminal court, by punishment. But there are, in large cities particularly, and particularly in the case of the many foreigners, of numerous nationalities, who are congregated there, many instances where it is a crime to treat parents who are not doing their full duty by their children, as criminals. Yet those parents need a checking up, and by a power representing the State, by the court. It is to cover such cases as this that it is provided in Judge Clearwater's amendment that this equity and other jurisdiction may be

conferred upon the courts dealing with the delinquencies of children, to deal also with the adults responsible for or contributing to such delinquencies. That is omitted in Mr. Stimson's amendment.

I believe you will find it wise to empower the Legislature to enable your judges to act not merely from the side of the criminal law to punish parents, but from the side of equity jurisdiction, by decree to command them to do this, that or the other thing, and on their failure to do these things, to bring them in under contempt proceedings. No substantial right of the accused is violated, but in thousands, hundreds of thousands of instances ignorant parents are going to be saved the stigma of criminality.

The object of all the legislation is to conserve the family, as the cornerstone of civilization, and we are in danger of breaking up the family when we array either the child or the parent in the criminal court, the one witnessing against the other on criminal charges.

I said that in Illinois this jurisdiction had been vested in the court of general jurisdiction — our Circuit Court. In Denver, in Boston and in Washington, D. C., it has been vested in special courts. Whether the one or the other is best is a matter that can only be determined in each community and after some time; therefore, as to this the Legislature's hands should not be tied. In Judge Clearwater's amendment there is the possibility of an entirely independent children's court being established solely for the purpose; there is the possibility of conferring the jurisdiction upon any court, inferior or superior.

It is extremely important, in my judgment, that the Legislature should have the power to vest all of this jurisdiction, both as to the children and as to the adult, both the criminal and the equitable in one court.

The great trouble in Chicago to-day is this, that the Juvenile Court, which is a branch of the Circuit Court, deals with the children. If there is an adult contributor to the delinquency of the child, you have got to send him over to the Municipal Court for trial. If it is a case of non-support, under our peculiar law, we have to send it over to the County Court to enforce the non-support provision. If there is some trouble between husband and

wife, it goes to the Court of Domestic Relations. In the saving of these thousands of poor people and in the interests of the general welfare, all these matters should be dealt with in the one court.

The question is not which of these courses is the wisest one, but whether, by proper constitutional provision, your Legislature shall be enabled, if it deems the exercise of this equitable jurisdiction wise, to enact laws similar to those enacted in other States, to give equity jurisdiction in children's and domestic relations cases without the necessity of vesting this jurisdiction in your Supreme Court. That the Legislature cannot do to-day. That is the fundamental object of this constitutional amendment.

APPENDIX I

APPROPRIATIONS TO THE COMMISSION BY THE LEGISLATURE OF 1915

In the Appropriation Bill

Salary of the secretary, three thousand five hundred dollars	\$3,500 00
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Graded Employees

High grade, two employees, one thousand five hundred dollars each	3,000 00
Low grade, one employee, one thousand dollars...	1,000 00
Temporary services, one hundred dollars	100 00
Travel and necessary traveling expenses of the commissioners, secretary and other employees in performance of their official duties, one thousand five hundred dollars	1,500 00
Furniture, books, blanks, printing, binding, telephone and telegraph service and other necessary expenses, two thousand dollars	2,000 00
Postage and transportation of letters and official documents and other matter sent by express or mail, including boxes or covering for same, nine hundred dollars	900 00
Office of office, six hundred dollars	600 00
Expenses of conferences, two hundred dollars ..	200 00
Total	\$12,800 00

In the Supply Bill

For expenses of conferences, two hundred dollars. . .	\$200 00
For rent, furniture, books, blanks, printing, binding telephone and telegraph service, postage and trans- portation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary office expenses, one thousand five hundred thirteen dol- lars and twenty-three cents.	1,513 23
Total.	<u>\$1,713 23</u>

**APPROPRIATIONS TO THE COMMISSION REQUESTED FROM THE
LEGISLATURE OF 1916**

In the Appropriation Bill

For salary of the secretary, three thousand five hun- dred dollars	\$3,500 00
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Graded Employees

Eighth grade, two employees, one thousand eight hundred dollars each.	3,600 00
Seventh grade, one employee, one thousand five hun- dred dollars	1,500 00
Sixth grade, one employee, one thousand dollars. . .	1,000 00
For temporary services, one hundred dollars.	100 00
For actual and necessary traveling expenses of the commissioners, secretary and other employees in the performance of their official duties, one thou- sand eight hundred dollars.	1,800 00
For furniture, books, blanks, stationery, printing, binding, messages, telephone and telegraph serv- ice, and other necessary office expenses, two thousand five hundred dollars.	2,500 00
For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, nine hundred dollars.	900 00
For expenses of conferences, two hundred dollars. .	200 00
Total.	<u>\$15,100 00</u>

APPENDIX J.

THE DIRECTORY

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SECTION I

PROBATION OFFICERS IN NEW YORK STATE

REVISED TO MAY 1, 1916

PROBATION OFFICERS IN CITY COURTS

City	Court	Name of probation officer	Address	Classification
Albany	Police	Watkins, Mrs. Helen M.	Police Court.	Salaried
Amsterdam	Recorder's	Keating, Thomas J.	80 Howard St.	Volunteer
Auburn	Recorder's		12 Pine St.	Salaried
Batavia	Police		Savings Bank Bldg.	Salaried
Beacon	City		Police Court.	Volunteer
Binghamton	City		County Cour House, Poughkeepie.	County
			Exchange Bldg.	Salaried
Buffalo	Children's*	(Chief)	St.	County
			St.	Salaried
			St.	Salaried
			44 Breckinridge St.	Salaried
	(Adult Part)	Kron, Jacob N.	71 West Eagle St.	Detailed
	City*	Wiley, William E. (Chief)	City Court.	Salaried
		Chase, Lewis E.	City Court.	Salaried
		Ernst, Natalie C.	City Court.	Salaried
		Galvin, William T.	City Court.	Salaried
		Kennelly, William A.	City Court.	Salaried
		Maloney, Joseph P.	City Court.	Salaried
		Maloney, John P.	City Court.	Salaried
		Pfeiffer, Frederick W.	City Court.	Detailed
		Regan, Patrick	City Court.	Salaried
		Romatowski, Louis A.	City Court.	Salaried
		Sweeney, Agnes F.	City Court.	Salaried

PROBATION OFFICERS IN CITY COURTS — Continued

City	Court	Name of probation officer	Address	Classification
Canandaigua	Police	Trembly, John F.	House	County
Cohoes	Recorder's	Mesick, William C.		Volunteer
Corning	City	B.		County
Cortland	City		City Court	County
Elmira	Recorder's		Police Headquarters	Volunteer
Gloversville	Recorder's	W.	41 West Fulton St.	County
Hornell	Recorder's	J.	Box H.	County
Hudson	Police		Police Court	Volunteer
Ithaca	City	Snaw, Mrs. Katherine H.	610 North Cayuga St.	Salaries
Jamestown	Police	Peterson, A. B.	City Hall	Salaries
Johnstown	Recorder's	Schumann, Harry W.	41 W. Fulton St., Gloversville	County
Kingston	Recorder's		Recorder's Court	Salaries
Lackawanna	City		1136 Southside Parkway	Salaries
Lockport	City		County Court House, Lockport	County
Mechanicville	Police		City Hall	Volunteer
Middletown	Recorder's	Reif, George L., Jr.	Goshen	County
Mount Vernon	Special Sessions	Parrott, Emanuel	City Hall	Salaries
Newburgh	Recorder's	Leibfried, John E.	City Hall	Salaries
New Rochelle	City		57 Charles St.	Volunteer
New York	Board of Magistrates, Manhattan and The Bronx	McKay, George D. (Deputy Chief)		
		Bergman, Louis	300 Mulberry St., New York city	Salaries
		Broadhead, Mrs. Frances S.	68 East 96th St., New York city	Salaries
		Conway, John	300 Mulberry St., New York city	Salaries
		Doyle, Anna	402 West 43d St., New York city	Salaries
			2366 Grand Concourse, The Bronx, New York city	Salaries

Fitzgerald, John P.	208 East 90th St., New York city.	Salaries
Hamel, Charles H.	397 East 158th St., The Bronx, New York city.	Salaries
Hemill, John F.	747 East 168th St., The Bronx, New York city.	Salaries
Hawes, Julian A.	352 West 117th St., New York city.	Salaries
Lavender, George J.	530 West 178th St., New York city.	Salaries
McCauley, Mrs. Carrie.	236 East 118th St., New York city.	Salaries
McCuaker, Susanne A.	1017 East 180th St., The Bronx, New York city.	Salaries
McElroy, William J.	144 Waverly Pl., New York city.	Salaries
McGroddy, Hugh F.	1389 Undercliff Ave., The Bronx, New York city.	Salaries
	413	Salaries
	21 N	Salaries
Shelly, Patrick J.	204	Salaries
Smith, Alice C.	166	Salaries
Stafford, Maurice E.	606 West 115th St., New York city.	Salaries
Weir, Howard P.	307 Lenox Ave., New York city.	Salaries
Wicks, Milton F.	444 West 20th St., New York city.	Salaries
	44 Court St., Brooklyn.	Salaries
	140 Linwood St., Brooklyn.	Salaries
	2919 Ave D., Brooklyn.	Salaries
	121 Fifth Ave New Brighton, S. I.	Salaries
	255 Macon	Salaries
	1041-77th I	Salaries
	805 St. John's Pl., Brooklyn.	Salaries
	27 Prospect Pl., Brooklyn.	Salaries
	514 Chauncey St., Brooklyn.	Salaries
	7 West Carnage Ave., Far Rockaway, L. I.	Salaries
Higgins, John A.	38 Prospect Pk., Southwest, Brooklyn	Salaries
Hodge, William B.	187 Concord St., Brooklyn	Salaries
Holden, Mrs. Marie P.	510 Bay Ridge Ave., Brooklyn.	Salaries
Hughes, Mrs. Myra P.	8643 Twenty-second Ave., Brooklyn.	Salaries

Brooklyn, Queens and Richmond.....

PROBATION OFFICERS IN CITY COURTS — Continued

City	Court	Name of probation officer	Address	Classification
New York — Continued	Brooklyn, Queens and Richmond — Continued...	Julian, Lionel.	6301 Fifth Ave., Brooklyn	Salaried
		Keating, John.	54 Ft. Green Pl., Brooklyn	Salaried
		Major, Kenneth.	120 East 32d St., Brooklyn	Salaried
		O'Grady, Mrs. Ellen A.	1475 President St., Brooklyn	Salaried
		O'Reilly, Patrick.	209 Taylor St., W. Brighton, Richmond	Salaried
		Russell, Joseph P.	75 Seventh Ave., New York city	Salaried
	Special Sessions, Borough of Manhattan, Parts 1 and 6.	Kelly, Laurence J. (Chief) ..	315 Fourth Ave., New York city	Salaried
		Gaffney, Mrs. A. L. (Deputy Chief) ..	315 Fourth Ave., New York city	Salaried
		Allis, William B.	315 Fourth Ave., New York city	Salaried
		Axman, Mrs. Sophie C.	15 West 91st St., New York city	Salaried
		Connors, William A.	1229 Park Ave., New York city	Salaried
		Mahony, William E.	450 Washington St., New York city	Salaried
		I.	435	Salaried
		I.	90 W	Salaried
		I.	140	Salaried
		I.	463	Salaried
	Borough of Brooklyn, Part 2.	Smith, John T.	1250	Salaried
		Swan, James A.	1918	Salaried
		DeGennaro, George.	4 Cx	Salaried
		Leitch, Frances E.	175	Salaried
		Rooney, John T.	1163 Vyes Ave., The Bronx, New York city	Salaried
		Simon, Herman.	Cooper St. and Wyckoff Junction, Evergreen, Brooklyn	Salaried
		Trieper, Theodore C.	9 Lewis St., Jamaica, L. I.	Salaried
		Sullivan, Timothy.	9 Lewis St., Jamaica, L. I.	Salaried
		Sullivan, Timothy.	9 Lewis St., Jamaica, L. I.	Salaried
		Sullivan, Timothy.	9 Lewis St., Jamaica, L. I.	Salaried

Borough of Bronx, Part 5...	Mullins, Michael J.	2331 Grand Concourse, The Bronx, New York city.	Salaried
Children's Court,	Fagan, Bernard J. (Chief)....	137 East 22d St., New York city ..	Salaried
	Halbert James B. (Deputy Chief)	137 East 22d St., New York city ..	Salaried
	Marcus, Morris (Senior Pro- bation Officer)	191 South 9th St., Brooklyn	Salaried
Manhattan	Hayes, Peter A.	131 East 50th St., New York city ..	Salaried
	Henkel, Edward J.	1053 Southern Blvd., New York city. lyn.	Salaried
	Heuser, Leonard	513 East 145th St., The Bronx, New York city	Salaried
	J.	429 Park Ave., New York city	Salaried
		589 West 177th St., New York city ..	Salaried
		1840 Seventh Ave., New York city ..	Salaried
	Kelly, Mrs. Ellen D.	934 Starling Pl., Brooklyn	Salaried
	Kelly, George J.	2122 Bryant Ave., The Bronx, New York city	Salaried
	McNamara, James E.	250 West 123d St., New York city ..	Salaried
	Malov, Mary R.	465 West 167th St., New York city ..	Salaried
	McN.	748 Beck St., New York city	Salaried
		406 West 58th St., New York city ..	Salaried
	Ross, Michael H.	42 Starling Pl Brooklyn	Salaried
	Smith, Frances E.	Lincoln Ave., Rosedale, Queens, New York city	Salaried
	White, Daniel J.	945-70th St., Brooklyn	Salaried
Brooklyn	Boyd, James W.	2104-67th St., Brooklyn	Salaried
	Greenberg, Harry	64 St. Johns Pl., Brooklyn	Salaried
	Hochfelder, Mrs. Annie W.	4 Court Sq., Brooklyn	Salaried
	Lyons, John H.	71-2d St., Brooklyn	Salaried
	Mallon, Patrick	204 Clermont Ave., Brooklyn	Salaried
	Medler, Joseph S.		
	Nash, Thomas J.		

Rochester.	Police.	Masters, Alfred J.	County Court House.	Salaried
Rome.	City.	Ottusat, Emma L.	38 Reynolds St.	Salaried
		Morris, David W.	County Court House, Utica.	County
		Graves, Norman K.	City Hall.	Volunteer
Saratoga Springs	City.	Rosbrook, Anna G.	City Hall.	Volunteer
Schenectady.	Police.	Belden, Elmer E.	378 Broadway.	Paid by fee
Syracuse.	Police*	McGinn, William H.	304 Clinton St.	Volunteer
		Thalheimer, Mrs. Rose E.		
Troy.	Police.	J.	202 W. Willow St.	Salaried
Utica.	City.	A. (Chief).	302 W. Willow St.	Salaried
		Griffith, Mrs. E. W.	80 Howard St., Albany.	Volunteer
Watertown.	City.	Ward, Peter A.	City Court.	Salaried
		Kellogg, Mrs. I. A.	1009 Park Ave.	Salaried
Watervliet.	Recorder's.	Walker, Nathaniel J.	City Court.	Salaried
Yonkers.	Special Sessions*	Garrity, James A. (Chief).	224 Massey Ave.	Volunteer
		Lesnick, Matthew J.	80 Howard St., Albany.	Salaried
			City Court.	Salaried
			City Court.	Salaried

VOLUNTEER PROBATION OFFICERS IN VILLAGE COURTS

VILLAGE	Court	County	Name of probation officer
Elmira Heights	Police	Chemung	Rosa, Ed. Deron, Fred
Malone	Police	Franklin	
Manlius	Police	Onondaga	
Medina	Police	Orleans	
Patchogue	Police	Suffolk	H.
Pleasantville	Police	Westchester	
Port Chester	Special Sessions	Westchester	
St. Johnsville	Police	Montgomery	
Suffern	Police	Rockland	

NOTE.—All county probation officers are authorized to serve in the courts of towns and villages in their respective counties.

PROBATION OFFICERS IN COURTS OF TOWNS

County	Town	Name of probation officer	Address	Classification
Albany	Colonie	Walker, N. J.	Albany	Volunteer
Allegany	Cuba	Pettit, William N.	Cuba	Volunteer
Chautauqua	Hanover	Geib, Fred	Silver Creek	Volunteer
Delaware	Sidney	Phelp ^s , Charles H.	Sidney	Volunteer
Herkimer	Manheim	Porter, A. A.	Dolgeville	Volunteer
Jefferson	Wilna	Peters, George	Carthage	Volunteer
Lewis	Osceola		Osceola	Volunteer
Nassau	Hempstead	Florence	Mineola	Volunteer
Niagara	Lewiston	Austin, Henry T.	Ransomville	Volunteer
Saratoga	Milton	O'Brien, James J.	Ballston Spa	Paid by fee
Schenectady	Glenville and Rotterdam	McGinn, William H.	Schenectady	Volunteer

PROBATION OFFICERS IN SUPREME AND COUNTY COURTS

County	Courts	Name of probation officer	Address	Classification
Albany	Supreme and County	Walker, Nathaniel J.	80 Howard St., Albany	Volunteer
Bronx	County	Harria, Harry B.	County Court, Bronx, New York city	Detailed
Broome	Supreme and County	Daly, George A.	County Court, Bronx, New York city	Detailed
Cayuga	Supreme and County	Koerbel, Samuel J.	Municipal Bldg., Binghamton	Salaried
Chautauqua	Supreme and County	Wallace, Richard A.	Savings Bank Bldg., Auburn	Salaried
		Button, Leon E.	Panama	Volunteer
		Gossett, Ernest A.	618 Spring St., Jamestown	Volunteer
		Peterson A B	City Hall, Jamestown	Volunteer
Chenango	Supreme and County		Norwich	Volunteer
Clinton	Supreme and County	A	109 Cornelia St., Plattsburg	Salaried
Columbia	County		Philmont	Volunteer
			26 Green St., Hudson	Volunteer
			81 North 5th St., Hudson	Volunteer
			823 Warren St., Hudson	Volunteer
			80 Howard St., Albany	Volunteer
Cortland	Supreme and County		City Court, Cortland	Salaried
Delaware	Supreme and County			Volunteer
Dutchess	Supreme and County			Salaried
Erie	Supreme and County			Salaried
			Poughkeepsie.	Salaried
			Law Exchange Bldg., Buffalo	Salaried
			Law Exchange Bldg., Buffalo	Salaried
			Law Exchange Bldg., Buffalo	Salaried
			Law Exchange Bldg., Buffalo	Salaried
			Law Exchange Bldg., Buffalo	Salaried
			Law Exchange Bldg., Buffalo	Salaried
			Law Exchange Bldg., Buffalo	Salaried
			Law Exchange Bldg., Buffalo	Salaried
			County Court House, Elizabethtown	Salaried
Essex	County		32 Elm St., Malone	Salaried
Franklin	Supreme and County			

Fulton.....	Supreme and County.....	Schumann, Harry W.....	41 West Fulton St., Gloversville.....	Salaried
Jefferson.....	Supreme and County.....	Nichols, E. B.....	County Court House, Watertown.....	Salaried
Kings.....	County.....	Backus, E. P.....	County Court House, Brooklyn.....	Detailed
		Bagnarello, Joseph.....	County Court House, Brooklyn.....	Detailed
		Davis John F.....	County Court House, Brooklyn.....	Detailed
		is.....	County Court House, Brooklyn.....	Detailed
		Ellen A.....	County Court House, Brooklyn.....	Volunteer
		s J.....	Lowville.....	Salaried
Lewis.....	Supreme and County.....	arrie R.....	56 Stone St., Oneida.....	Salaried
Madison.....	County.....	J.....	County Court House, Rochester.....	Detailed
Monroe.....	County.....	A.....	County Court House, Rochester.....	Salaried
	County (Children's Part)*.....	M.....	County Court House, Rochester.....	Salaried
		Smith, Mrs. Sarah F.....	County Court House, Rochester.....	Salaried
Montgomery.....	Supreme and County.....	Morse, William H.....	12 Pine St., Amsterdam.....	Salaried
Nassau.....	Supreme and County.....	Seaman, Phineas A.....	Morton Ave., Hempstead.....	Salaried
New York.....	Supreme and General Sessions.....			Volunteer
			2303 Seventh Ave., New York city.....	Volunteer
			366 Broadway, New York city.....	Volunteer
		A.....	366 Broadway, New York city.....	Volunteer
			366 Broadway, New York city.....	Volunteer
			366 Broadway, New York city.....	Volunteer
			366 Broadway, New York city.....	Volunteer
			366 Broadway, New York city.....	Volunteer
			32 Franklin St., New York city.....	Volunteer
			32 Franklin St., New York city.....	Volunteer
			32 Franklin St., New York city.....	Volunteer
			135 East 15th St., New York city.....	Volunteer
Niagara.....	Supreme and County.....	Scoby, Arch C.....	County Court House, Lockport.....	Salaried
Oneida.....	Supreme and County.....	Morris, David W.....	County Court House, Utica.....	Salaried
Onondaga.....	Supreme and County.....	Hodge, William F.....	901 Onondaga County Savings Bank Bldg., Syracuse.....	Salaried
			County Court House, Syracuse.....	Salaried
			County Court House, Canandaigua.....	Salaried
Ontario.....	County (Children's Part).....	Winter, Charles W.....	162 Main St., Goshen.....	Salaried
Orange.....	Supreme and County.....	Trembly, John F.....		
		Henderson, William A.....		

PROBATION OFFICERS IN SUPREME AND COUNTY COURTS — *Concluded*

COUNTY	Courts	Name of probation officer	Address	Classification
Oswego	Supreme and County	Dempsey, William J.	County Court House, Oswego	Salaries
Otsego	County	"	West Exeter	Salaries
		"	Oneonta	Volunteer
		"	Oneonta	Volunteer
		A.	96 Main St., Cooperstown	Volunteer
		"	Oneonta	Volunteer
Putnam	County	Trimble, Samuel	Cold Spring	Salaries
Queens	County	Cassidy, James H.	Blissville	Detailed
Rensselaer	Supreme and County	Walker, Nathaniel J.	80 Howard St., Albany	Volunteer
Richmond	Supreme and County	Halbert, James B.	912 Post Ave., Port Richmond	Volunteer
Rockland	Supreme and County	McNichol, Michael	Nyack	Salaries
St. Lawrence	County	"	Proctor Ave., Ogdensburg	Salaries
Saratoga	Supreme and County	"	378 Broadway, Saratoga Springs	Paid by fee
		"	142 Milton Ave., Ballston Spa	Paid by fee
		"	Corinth	Paid by fee
		"	148 Park Place, Mechanicville	Paid by fee
Schenectady	County	"	304 Clinton St., Schenectady	Volunteer
Schoharie	County	L.	7 Elm St., Cobleskill	Volunteer
		"	Cobleskill	Volunteer
		M	Schoharie	Volunteer
Steuben	Supreme and County	"	Hornell	Salaries
		"	Canisteo	Volunteer
Suffolk	Supreme and County	"	Riverhead	Salaries
Ulster	Supreme and County	"	Kingston	Volunteer
		"	Kingston	Volunteer
Warren	Supreme and County	Bullard, Frank E.	Glens Falls	Salaries
Westchester	Supreme and County *	Mouteney, W. Ewart	Box 94, White Plains	Salaries
Wyoming	County	Wellman, A. E.	Pavilion	Volunteer

* Names of volunteer officers are not given.

SECTION 2

PROBATION ASSOCIATIONS IN NEW YORK STATE

BUFFALO

BUFFALO PROBATION OFFICERS' ASSOCIATION: President, E. Wiley; Secretary and Treasurer, John P. Maloney, Buffalo. Established December 20, 1910. Aims to the efficiency of probation and to promote friendship and union among the members of the association. Meetings monthly at the call of the president.

NEW YORK CITY

BIG BROTHER MOVEMENT (*Incorporated*): President, Franklin C. Hoyt; Secretary, Charles A. Taussig, 200 Fifth Avenue; Chairman Executive Committee, Ernest K. Coulter; General Secretary, Rowland C. Sheldon. Object: To unite into an organized body men who are willing to interest themselves, by personal effort, in the welfare of children who have been arraigned in the Children's Court and in all others whose conditions call for such care, having in view their equipment for better citizenship.

YIDDISH BIG BROTHER ASSOCIATION, (*incorporated*): President, H. Sulzberger; Vice-President, E. S. Greenbaum; Secretarial Managing Director, Alexander H. Kaminsky, 356 Second Avenue; Treasurer, Arthur J. Goldsmith. An association of Jewish men to carry out the purpose of a Big Brother Association, and for the diminishing of juvenile delinquency among Jew-

CATHOLIC BIG BROTHER'S LEAGUE: President, Hon. Cornelius J. Sullivan; Gen. Secretary, Martin J. Moore, 137 East 22nd St.; Vice Treasurer, George McDonald. An association of Catholic men to work among Catholic youth for the prevention of delinquency from delinquency of every kind.

BIG SISTERS (*Incorporated*): President, Mrs. W. K. Gillett; Secretary, Mrs. Charles Dana Gibson; Executive Secretary, Mrs. M. W. Evans; Treasurer, Mrs. Willard Parker, 100 Fifth Avenue, New York City. An association of

women individually to take and secure others to take a friendly interest in children, especially girls who have been brought before the Children's Court, and in other children whose physical, mental and moral development has been hindered or endangered because of bad environment or other conditions.

CATHOLIC PROTECTIVE SOCIETY OF THE ARCHDIOCESE OF NEW YORK: President, His Eminence, John Cardinal Farley; Vice-President, Rt. Rev. Patrick J. Hayes; Secretary and Treasurer, and Supervisor of Correction Work for Catholics, Rev. Thomas J. Lynch, 366 Broadway, New York City. Object: Established to do probation and protective work for Catholic juveniles and adults accused of crime or convicted in the courts of New York City. Also does parole work for State prisons, and after-care of delinquents from the various correctional institutions, under State and city control.

JEWISH PROTECTORY AND AID SOCIETY (*Incorporated*): President, Mortimer L. Schiff; Superintendent, Department of Delinquency and Probation, Irving W. Halpern, 356 Second Avenue, New York City. Established in 1908 by consolidating the Jewish Protectory and Aid Society and the Society for the Aid of Jewish Prisoners. Furnishes probation officers for Jewish defendants in New York City and also aids discharged prisoners. Supervises work of Jewish chaplains in penal institutions.

NATIONAL LEAGUE ON URBAN CONDITIONS AMONG NEGROES: Chairman, L. Hollingsworth Wood; Secretary, William H. Baldwin, 3d; Director, George Edmund Haynes; Associate Director, Eugene Kinckle Jones, 2303 Seventh Avenue, New York City. Established in 1911 to bring about co-ordination and co-operation among existing organizations for improving conditions of negroes along industrial, economic and social lines. Maintains a probation officer in the New York Court of General Sessions.

NEW YORK PROBATION AND PROTECTIVE ASSOCIATION (*Incorporated*): President, Hon. Alfred R. Page; Secretary, Miss Maude E. Miner, 130 East 22d Street, New York City. Established in 1908. Assists in cases of women brought before the courts; maintains Waverley House at 38 West 10th Street, a temporary home for women released from courts pending their trial, while on probation or detained as witnesses; conducts an

oyment Exchange at 130 East 22d Street, and Girls' Protective League Club at 138 East Nineteenth Street; maintains a shelter home for girls.

PRISON ASSOCIATION OF NEW YORK (*Incorporated*): President, Eugene Smith; General Secretary, O. F. Lewis, 135 East Nineth Street, New York City. Established in 1844. Furnishes a probation officer for the New York Court of General Sessions. Has promoted the adoption of the probation system. Does parole work for State prisons and other institutions.

PROBATION OFFICERS' ASSOCIATION OF THE CHILDREN'S COURT: President, Bernard J. Fagan; Recording Secretary, Mrs. E. McNamara; Treasurer, Mrs. Marguerite Park. "An organization to promote an *esprit de corps* among its members. To meet and confer by means of discussions, conferences and lectures; so that we may be thoroughly familiar with a system whose success depends so largely on the manner in which we employ the methods adopted, and to be able to encourage a wider and more suitable application of the same."

PROBATION SOCIETY OF THE SPANISH AND PORTUGUESE SYNAGOGUE: President, Mrs. Mortimer M. Menken, 149 West 77th Street, New York City; Treasurer, Mrs. Elias A. de Lima, 58 West 87th Street; Corresponding Secretary, Mrs. Edward O. Belais, 235 West 76th Street. Carries on volunteer probation work for Jewish girls in the City Magistrates Courts. Volunteer woman probation officer maintained in the Night Court for Women: Mrs. Elizabeth Barnett.

BROOKLYN JUVENILE PROBATION ASSOCIATION: President, Robert J. Wilkin; Secretary, Mrs. Tunis G. Bergen; Executive Secretary, Miss Gertrude Grasse, 102 Court Street, Brooklyn. Established in 1906. Assists and extends juvenile probation work by co-operating with the Children's Court, probation officers and with correctional institutions. Provides volunteer workers for children released from probation, and for children released from institutions; co-operates with schools and the Children's Court in the care of "preventive work." Maintains an employment bureau for the Children's Court and assists in many cases where a private organization can supplement the work of the court.

CIVIL SERVICE MALE PROBATION OFFICERS' ASSOCIATION OF THE SECOND DIVISION MAGISTRATES' COURTS: President, Frank Graves; Vice-President, Lionel Julian; Secretary and Treasurer, John A. Higgins. Meets on the first Friday of every month at 402 Myrtle Avenue, Brooklyn.

CIVIL SERVICE PROBATION OFFICERS' ASSOCIATION OF BROOKLYN FOR WOMEN: President, Mrs. Marie P. Holden; Secretary, Mrs. Elizabeth Hardoncourt. Meets on the first Tuesday of every month at 3:30 P. M., at 44 Court Street, Brooklyn, for the discussion of probation work.

RICHMOND BOROUGH PROBATION ASSOCIATION: President, Hon. Morgan M. L. Ryan; Vice-President, Rev. Edward A. Dodd; Secretary, Mrs. S. McKee Smith; Treasurer, Walter S. Mayer. Purposes: To assist in and supplement probation work in the courts of Richmond County; to aid, assist and advise poor, destitute and homeless children and to promote the general welfare of the children of Richmond County.

SYRACUSE

THE BIG SISTERS: Honorary President, Miss Airia Huntington; President, Miss Ethel Vinney; General Secretary, Mrs. Rose E. Thalheimer; Secretary, Miss Virginia Moore; Treasurer, Miss Cornelia Hiscock. An association of women, individually to take and secure others to take a friendly interest in children, especially girls brought before the Children's Part of Special Sessions Court, and any other children whose physical, mental and moral development has been hindered or been endangered because of bad environment or other conditions. Meetings are held fortnightly.

NATIONAL

NATIONAL PROBATION ASSOCIATION: President, Albert J. Sargent, Boston, Mass.; Secretary and Treasurer, Charles L. Chute, Albany, N. Y. Dues, \$1 per year. Holds an annual conference, usually in conjunction with the National Conference of Charities and Correction. Studies and works for the extension of adult and juvenile probation, parole, and juvenile courts, and promotes legislation, State and Federal, relating thereto. Publishes a directory of probation officers in the United States, proceedings of conferences, and other literature.

SECTION 3

TORY OF MAGISTRATES AND OTHER LOCAL OFFICIALS

- . The Supreme Court — District and justices.
- 2. County judges, special county judges, population of counties, county seats.
- . District attorneys, sheriffs, superintendents of the poor.
- . Magistrates of cities outside of New York City, populations.
- . Magistrates and courts in New York City.
- . Cities — police, charity and school officials.
- . Villages — police justices.

PART I

SUPREME COURT DISTRICTS

- Counties of New York and Bronx.
- Counties of Kings, Nassau, Queens, Richmond and Suffolk.
- Counties of Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan and Ulster.
- Counties of Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, St. Lawrence, Saratoga, Schenectady, Warren and Washington.
- Counties of Herkimer, Jefferson, Lewis, Oneida, Onondaga and Oswego.
- Counties of Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga and Tompkins.
- Counties of Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne and Yates.
- Counties of Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans and Wyoming.
- Counties of Dutchess, Orange, Putnam, Rockland and Westchester.

SUPREME COURT JUSTICES

[Elected for a term of fourteen years]

NAME	Residence	Term expires
First Judicial District:		
Vernon M. Davis.....	New York city.....	December 31, 1916
John C. Clark.....	New York city.....	December 31, 1916
George V. Mullan.....	Bronx.....	December 31, 1916
Victor J. Dowling.....	New York city.....	December 31, 1918
John W. Goff.....	New York city.....	December 31, 1918
Francis M. Scott.....	New York city.....	December 31, 1918
Joseph E. Newburger.....	New York city.....	December 31, 1919
Leonard A. Giegerich.....	New York city.....	December 31, 1920
M. Warley Platzek.....	New York city.....	December 31, 1920
Peter A. Hendrick.....	New York city.....	December 31, 1920
John Ford.....	New York city.....	December 31, 1920
Mitchell L. Erlanger.....	New York city.....	December 31, 1920
Charles L. Guy.....	New York city.....	December 31, 1920
Francis K. Pendleton.....	New York city.....	December 31, 1921
Irving Lehman.....	New York city.....	December 31, 1922
Edward G. Whitaker.....	New York city.....	December 31, 1923
Nathan Bijur.....	New York city.....	December 31, 1923
Edward J. Gavegan.....	New York city.....	December 31, 1923
Alfred R. Page.....	New York city.....	December 31, 1923
John Proctor Clarke.....	New York city.....	December 31, 1924
Daniel F. Cohalan.....	New York city.....	December 31, 1925
Henry D. Hotchkiss.....	New York city.....	December 31, 1925
Philip Henry Dugro.....	New York city.....	December 31, 1925
Thomas F. Donnelly.....	New York city.....	December 31, 1926
John M. Tierney.....	Bronx.....	December 31, 1926
Eugene A. Philbin.....	New York city.....	December 31, 1927
Benjamin N. Cardozo.....	New York city.....	December 31, 1927
Bartow S. Weeks.....	New York city.....	December 31, 1928
Samuel Greenbaum.....	New York city.....	December 31, 1929
Francis B. Delehanty.....	New York city.....	December 31, 1929
Clarence J. Shearn.....	New York city.....	December 31, 1929
Edward R. Finch.....	New York city.....	December 31, 1929
Second Judicial District:		
James C. Cropsey.....	Brooklyn.....	December 31, 1916
William J. Kelly.....	Brooklyn.....	December 31, 1917
Garret J. Garretson.....	Elmhurst.....	December 31, 1917
Edward B. Thomas.....	Brooklyn.....	December 31, 1918
Walter H. Jaycox.....	Patchogue.....	December 31, 1920
Joseph Aspinall.....	Brooklyn.....	December 31, 1920
Frederick E. Crane.....	Brooklyn.....	December 31, 1920
Lester W. Clark.....	New Brighton.....	December 31, 1920
William J. Carr.....	Brooklyn.....	December 31, 1920
Townsend Scudder.....	Glen Head.....	December 31, 1920
Harrington Putnam.....	Brooklyn.....	December 31, 1921
Abel E. Blackmar.....	Brooklyn.....	December 31, 1922
Luke D. Stapleton.....	Brooklyn.....	December 31, 1922
Almet F. Jenks.....	Brooklyn.....	December 31, 1923
Isaac M. Kapper.....	Brooklyn.....	December 31, 1923
Samuel T. Maddox.....	Brooklyn.....	December 31, 1923
Charles H. Kelby.....	Brooklyn.....	December 31, 1925
Russell Benedict.....	Brooklyn.....	December 31, 1925
James C. Van Sicken.....	Jamaica.....	December 31, 1925

SUPREME COURT JUSTICES — *Continued*

NAME	Residence	Term expires
Third Judicial District — Concluded:		
David F. Manning	Brooklyn	December 31, 1926
Stephen Callaghan	Brooklyn	December 31, 1929
Fourth Judicial District:		
Wesley O. Howard	Troy	December 31, 1916
John Chester	Albany	December 31, 1918
William P. Rudd	Albany	December 31, 1921
Henry A. Chase	Catskill	December 31, 1924
Bert D. B. Hasbrouck	Kingston	December 31, 1926
John V. S. Cochrane	Hudson	December 31, 1928
Fifth Judicial District:		
John M. Kellogg	Ogdensburg	December 31, 1917
Henry T. Kellogg	Plattsburg	December 31, 1917
Charles C. Van Kirk	Greenwich	December 31, 1919
Walter B. McLaughlin	Port Henry	December 31, 1923
Edward C. Whitmyer	Schenectady	December 31, 1925
Henry V. Borst	Amsterdam	December 31, 1927
Sixth Judicial District:		
Frank R. Devendorf	Herkimer	December 31, 1919
Michael C. J. DeAngelis	Utica	December 31, 1920
Gar C. Emerson	Watertown	December 31, 1920
William M. Ross	Syracuse	December 31, 1920
Gar S. K. Marrell	Lowville	December 31, 1923
Frank G. Hubbs	Pulaski	December 31, 1925
William S. Andrews	Syracuse	December 31, 1927
Donald C. Crouch	Syracuse	December 31, 1927
Seventh Judicial District:		
Walter Lloyd Smith	Elmira	December 31, 1916
Bert H. Sewell	Walton	December 31, 1917
George F. Lyon	Binghamton	December 31, 1919
Michael H. Kiley	Cazenovia	December 31, 1926
George McCann	Elmira	December 31, 1927
Lowland L. Davis	Cortland	December 31, 1929
Eighth Judicial District:		
Bert F. Thompson	Canandaigua	December 31, 1916
Dolph J. Rodenbeck	Rochester	December 31, 1916
George A. Benton	Spencerport	December 31, 1918
Samuel Foote	Rochester	December 31, 1919
William W. Clark	Wayland	December 31, 1920
Samuel Nelson Sawyer	Palmyra	December 31, 1921
Albert P. Rich	Auburn	December 31, 1928
Ninth Judicial District:		
George W. Cole	Jamestown	December 31, 1916
John S. Lambert	Fredonia	December 31, 1917
Louis W. Marcus	Buffalo	December 31, 1920
Herbert W. Pound	Lockport	December 31, 1920
Edward K. Emery	Buffalo	December 31, 1920
Charles H. Brown	Belmont	December 31, 1920
Charles B. Wheeler	Buffalo	December 31, 1921
Frederick W. Kruse	Olean	December 31, 1922
Frank C. Laughlin	Buffalo	December 31, 1922
John Woodward	Buffalo	December 31, 1924
Charles A. Pooley	Buffalo	December 31, 1924
Herbert P. Bissell	Buffalo	December 31, 1926
Harry L. Taylor	Buffalo	December 31, 1927
Wesley C. Dudley	Buffalo	December 31, 1916

SUPREME COURT JUSTICES — *Concluded*

NAME	Residence	Term expires
Ninth Judicial District:		
Michael H. Hirschberg.....	Newburgh.....	December 31, 1917
Isaac N. Mills.....	Mount Vernon.....	December 31, 1920
Arthur S. Tompkins.....	Nyack.....	December 31, 1920
Joseph Morschauser.....	Poughkeepsie.....	December 31, 1920
Martin J. Keogh.....	New Rochelle.....	December 31, 1922
William P. Platt.....	White Plains.....	December 31, 1928
J. Addison Young.....	New Rochelle.....	December 31, 1929

PART 2. COUNTY JUDGES AND SPECIAL COUNTY JUDGES
(Term, Six Years)

County	Population	Name	Residence	Elected	County seat
Albany.....	183,330	George Addington.....	Albany.....	Nov., 1913	Albany
Allegany.....	40,216	Elba Reynolds.....	Belmont.....	" 1913	Belmont
Bronx.....	615,600	Louis D. Gibbs.....	Bronx.....	" 1913	The Bronx
Broome.....	90,641	Benjamin Baker.....	Binghamton.....	" 1912	Binghamton
Cattaraugus.....	72,756	Thomas H. Dowd.....	Salamanca.....	" 1911	Little Valley
Cayuga.....	65,751	Hull Greenfield.....	Auburn.....	" 1913	Auburn
Chautauqua.....	116,818	Arthur B. Ottaway.....	Westfield.....	" 1912	Mayville
Chemung.....	59,017	Charles B. Swartwood.....	Elmira.....	" 1914	Elmira
Chenango.....	36,648	James P. Hill.....	Norwich.....	" 1913	Norwich
Clinton.....	47,561	Arthur S. Hogue.....	Plattsburg.....	" 1913	Plattsburg
Columbia.....	44,111	Daniel V. McNamee.....	Hudson.....	" 1912	Hudson
Cortland.....	30,074	Joseph E. Eggleston.....	Cortland.....	" 1913	Cortland
Delaware.....	45,995	Lewis F. Raymond.....	Franklin.....	" 1912	Delhi...
Dutchess.....	91,044	C. W. H. Arnold.....	Poughkeepsie.....	" 1913	Poughkeepsie
Erie.....	571,897	Philip A. Laing.....	Buffalo.....	" 1913	Buffalo
Essex.....	32,461	Berne A. Pyrke.....	Port Henry.....	" 1911	Elizabethtown
Franklin.....	46,181	Frederick G. Paddock.....	Malone.....	" 1913	Malone
Fulton.....	45,625	Frank Talbot.....	Gloversville.....	" 1913	Johnstown
Genesee.....	40,707	Edward A. Washburn.....	Batavia.....	" 1912	Batavia
Greene.....	30,091	Josiah C. Tallmadge.....	Catskill.....	" 1912	Catskill
Hamilton.....	4,491	Timothy D. Sullivan.....	Long Lake.....	" 1913	Lake Pleasant
Herkimer.....	64,109	Charles Bell.....	Herkimer.....	" 1912	Herkimer
Jefferson.....	81,009	George W. Reeves.....	Watertown.....	" 1912	Watertown
Kings.....	1,798,513	Norman S. Pike.....	Brooklyn.....	" 1913	Brooklyn
		Lewis L. Fawcett.....	Brooklyn.....	" 1913	Brooklyn
		Robert H. Roy.....	Brooklyn.....	" 1915	Brooklyn
		John F. Hylan.....	Brooklyn.....	" 1915	Brooklyn
		Mitchell May.....	Brooklyn.....	" 1915	Brooklyn

PART 2. COUNTY JUDGES AND SPECIAL COUNTY JUDGES — Continued

COUNTY	Population	Name	Residence	Elected	County seat
Lewis.....	25,947	Milton Carter.....	Lowville.....	Nov., 1910	Lowville
Livingston.....	38,427	Lockwood R. Doty.....	Geneseo.....	" 1914	Geneseo
Madison.....	41,742	Joseph D. Senn.....	Oneida.....	" 1913	Watapsville
Monroe.....	319,310	John B. M. Stephens.....	Rochester.....	" 1912	Rochester
Montgomery.....	61,030	Joseph L. Moore.....	Fort Plain.....	" 1912	Fonda
Nassau.....	116,825	James P. Niemann.....	Lynbrook.....	" 1910	Mineola
New York*	2,137,747	Thomas C. T. Crain.....	New York city.....	" 1906	New York city
		James A. Delehanty.....	New York city.....	Jan., 1916	New York city
		James T. Malone.....	New York city.....	Nov., 1907	New York city
		Joseph F. Mulneen.....	New York city.....	" 1907	New York city
		Carl C. I.....	New York city.....	" 1913	New York city
		Otto A.....	New York city.....	" 1906	New York city
		William H. Wadhams.....	New York city.....	" 1913	New York city
Niagara.....	108,550	Norman D. Fish.....	No. Tonawanda.....	" 1913	Lockport
Oneida.....	167,331	Frederick H. Hazard.....	Utica.....	" 1910	Utica
Onondaga.....	213,992	William G. Cady.....	Syracuse.....	" 1915	Syracuse
Ontario.....	54,628	Horace W. Fitch.....	Canandaigua.....	Feb., 1916	Canandaigua
Orange.....	118,118	Albert H. F. Seeger.....	Newburgh.....	Nov., 1912	Goshen
Orleans.....	33,919	Fred L. Downs.....	Medina.....	" 1911	Albion
Oswego.....	75,929	Henry D. Coville.....	Central Square.....	" 1914	Oswego
Otsego.....	48,534	Abraham L. Kellogg.....	Oneonta.....	" 1914	Cooperstown
Putnam.....	12,767	J. Bennett Southard.....	Cold Spring.....	" 1913	Carmel
Queens.....	396,727	Burt J. Humphrey.....	Jamaica.....	" 1915	Jamaica
Rensselaer.....	121,330	Pierce H. Russell.....	Troy.....	" 1915	Troy
Richmond.....	98,634	J. Harry Tiernan.....	W. New Brighton.....	" 1911	Richmond
Rockland.....	46,903	William McCauley.....	Haverstraw.....	" 1914	New City
St. Lawrence.....	90,291	John C. Crapser.....	Massena.....	" 1914	Canton
Saratoga.....	62,982	George R. Salisbury.....	Saratoga Springs.....	" 1912	Ballston Spa
Schenectady.....	98,625	Daniel Naylor, Jr.....	Schenectady.....	" 1912	Schenectady

Schoharie.....	23,005	Dow Beekman.....	Middleburg.....	"	1911	Schoharie
Schuyler.....	13,954	Olin T. Nye.....	Watkins.....	"	1912	Watkins
Seneca.....	25,249	George F. Bodine.....	Waterloo.....	"	1913	Waterloo
Steuben.....	83,630	Warren J. Cheney.....	Corning.....	"	1912	Bath
Suffolk.....	104,342	John R. Vunk.....	Patchogue.....	"	1912	Riverhead
Sullivan.....	38,189	George H. Smith.....	Monticello.....	"	1914	Monticello
Tioga.....	25,549	George F. Andrews.....	Owego.....	"	1912	Owego
Tompkins.....	36,535	Willard M. Kent.....	Ithaca.....	"	1915	Ithaca
Ulster.....	85,367	James Jenkins.....	Kingston.....	"	1912	Kingston
Warren.....	32,977	George S. Raley.....	Glens Falls.....	"	1910	Lake George
Washington.....	46,955	Erskine C. Rogers.....	Hudson Falls.....	"	1915	Hudson Falls
Wayne.....	53,476	Clyde W. Knapp.....	Lyons.....	"	1914	Lyons
Westchester.....	321,713	Frank L. Young.....	Ossining.....	Jan.,	1916	White Plains
Wyoming.....	33,028	James E. Norton.....	Warsaw.....	Nov.,	1910	Warsaw
Yates.....	18,841	Gilbert H. Baker.....	Penn Yan.....	"	1913	Penn Yan

* Judges of General Sessions of New York County serve for a term of fourteen years.

SPECIAL COUNTY JUDGES

COUNTY	Name	Residence	Elected	County seat
Cayuga.....	John Tabor.....	Auburn.....	Nov., 1913	Auburn
Chautauqua.....	Frank S. Wheeler.....	Jamestown.....	" 1913	Mayville
Chenango.....	John H. Hicks.....	Norwich.....	" 1912	Norwich
Jefferson.....	Fred B. Waite.....	Adams.....	" 1913	Watertown
Monroe.....	John A. Barbite.....	Rochester.....	" 1915	Rochester
Oneida.....	Walter G. Shankenbery.....	Rome.....	" 1913	Utica
Orange.....	Herbert B. Royce.....	Middletown.....	" 1914	Goshen
Oswego.....	George M. Fanning.....	Fulton.....	" 1914	Oswego
St. Lawrence.....	Charles M. Hale.....	Canton.....	" 1914	Canton
Sullivan.....	Arthur C. Kyle.....	Monticello.....	" 1915	Monticello
Tioga.....	Frank A. Bell.....	Waverly.....	" 1914	Owego
Tompkins.....	S. Edwin Banks.....	Ithaca.....	Dec., 1915	Ithaca
Washington.....	Eliot B. Norton.....	Cambridge.....	Nov., 1914	Hudson Falls

PART 3. DISTRICT ATTORNEYS, SHERIFFS AND SUPERINTENDENTS OF THE POOR

COUNTY	District Attorney	Sheriff	Superintendent of the Poor
Albany	Harold D. Alexander.....	James D. Patton.....	Alwin C. Quentel
Allegany	James T. Ward.....	J. Whit Weir.....	Daniel C. Grunder
Bronx	James Martin.....	James F. O'Brien.....	(1)
Broome	Urbane C. Lyons.....	Jess C. Hover.....	George A. Watrous
Cattaraugus	Archibald M. Laidlaw.....	Charles B. Nichols.....	Willis P. Kysor
Cayuga	Albert H. Clark.....	Saffrine L. Depew.....	Arthur L. Smith
Chautauque	William S. Stearns.....	William H. Marvin.....	Charles E. Dodge
Chemung	E. Watson Personius.....	A. Roselle Hoke.....	George Clark
Chenango	Millard C. Loomis.....	Neil D. Lewis.....	Frank J. Quinn
Clinton	John K. Collins.....	John N. Moore.....	James L. Burke
Columbia	John C. Tracy.....	William J. Kline.....	W. Newton Gould
Cortland	James F. Tobin.....	Jerry L. Eades.....	Fred T. Newcomb
Delaware	Hamilton J. Hewitt.....	Alford L. Austin.....	James F. Foreman
Dutchess	Raymond E. Aldrich.....	Elmer J. Conklin.....	Frank W. Hallock
Erie .....	.....	Edward Stengel.....	(2)
Essex .....	.....	Charles L. Pool.....	Horace H. Nye
Franklin .....	.....	Frank S. Stemberge.....	Julius Q. King
Fulton .....	.....	William.....	Mark Dutcher
Genesee	William H. Coon.....	Freeman.....	John R. Bennington
Greene	Howard C. Wilbur.....	Charles A. Post.....	Charles F. Lewis
Hamilton	Hartwell E. Gill.....	Frank A. Lawrence.....	George H. Craft
Herkimer	W. Earl Ward.....	James W. Moon.....	Ira T. Tolley
Jefferson	Claude B. Alverson.....	Charles C. Hosmer.....	Patrick McSweeney
Kings	Harry E. Lewis.....	Edward Riegelmann.....	Herbert Snell
Lewis	William H. Hiltz.....	George O. Jeffers.....	William H. Gifford
			Isaac H. Comstock
			Fred W. Dunaway
			(3)
			Louis T. Strong

DISTRICT ATTORNEYS, SHERIFFS AND SUPERINTENDENTS OF THE POOR — *Concluded*

COUNTY	District Attorney	Sheriff	Superintendent of the Poor
Livingston.....	William A. Wheeler.....	George H. Root.....	James J. Gilmore
Madison.....	E. Leland Hunt.....	Clarence G. Taylor.....	Lewis Close.
Monroe.....	John W. Barrett.....	Charles E. Owen.....	William E. Porter
Montgomery.....	George M. Albot.....	Elmer E. Folmsbee.....	Mortimer Smith
Nassau.....	Lewis J. Smith.....	Stephen P. Pettit.....	Claude Van Deusen
New York.....	Edward Swann.....	Alfred E. Smith.....	(1)
Niagara.....	Burk A. Duquette.....	William Shaw.....	Alanson C. Bigalow
Oneida.....	Bradley Fuller.....	William K. Harvey.....	Joel T. Howe
Onondaga.....	George W. Standen.....	John P. Schlosser.....	Henry D. Nottingham
Ontario.....	Nathan D. Lapham.....	Elmer Lucas.....	Fred W. Hollis
Orange.....	Henry Hirschberg.....	Fred S. McDowell.....	William F. Durland
Orleans.....	John C. Knickerbocker.....	Chester M. Bartlett.....	Leigh S. Hill
Oswego.....	Francis D. Culkin.....	William L. Buck.....	C. Adelbert Stone
Otsego.....	Orange L. Van Horne.....	Orlo J. Brown.....	Morris Ackley
Putnam.....	Henry J. Rusk.....	Charles E. Nichols.....	John Brooks
Queens.....	Dennis O'Leary.....	Paul Steir.....	(3)
Rensselaer.....	John P. Taylor.....	William P. Powers.....	Harry A. Sheldon
Richmond.....	Albert C. Fach.....	Spire Pitou, Jr.....	(4)
Rockland.....	Thomas Gagan.....	Hudson Hurd.....	August J. Gross
St. Lawrence.....	James C. Dolan.....	Herbert M. Farmer.....	Harlow A. Olmsted
Saratoga.....	Lawrence B. McKelvey.....	William J. Dodge.....	Francis J. Dunn
Schenectady.....	Alexander T. Blessing.....	Louis A. Welch, Sr.....	Delos H. Chisholm
Schoharie.....	Clyde H. Proper.....	David Boynton.....	Orrin Huse
Schuyler.....	Edwin C. Barkman.....	Darwin F. Thompson.....	Charles M. Bronson
Seneca.....	Leon S. Church.....	James O'Connor.....	John M. Payne
Steuben.....	Edwin S. Brown.....	Frank O. Gay.....	J. Smith Brundage
Suffolk.....	Ralph C. Greene.....	Charles J. Odell.....	Robert F. Gurney
Sullivan.....	George L. Cooke.....	Elmer Winner.....	Cornelius E. Downie

Tioga.....	Frank Beck.....	William E. Allen.....	Addison Lainhart Charles G. Krum George D. Miller Daniel Mitchell William D. Baldwin Walter Mekeel
Tompkins.....	Arthur G. Adams.....	Charles Mackey.....	Cornelius L. Van Orden Edward W. Griggs Milo S. Graham James K. Gatchell V. Everit Macy James W. Ives G. Frank Wing Charles Cromwell William H. Townsend
Ulster.....	Frederick G. Traver.....	Edgar T. Schultis.....	
Warren.....	James S. Kiley.....	Charles H. Baker.....	
Washington.....	Wyman S. Bascom.....	Robert J. McClarty.....	
Wayne.....	Alfred S. Armstrong.....	Bert E. Valentine.....	
Westchester.....	Frederick E. Weeks.....	Ulrich Weisendanger.....	
Wyoming.....	Lavergne A. Walker.....	William A. MacRae.....	
Yates.....	Charles H. Wood.....	Milton H. Ayers.....	

Commissioner of Public Charities for Boroughs of Manhattan and Bronx, appointed by mayor of New York City.
 Commissioner of
 Commissioner of
 Commissioner of
 Commissioner of

of Kings and Queens, appointed by mayor of New York City.
 of Richmond, appointed by mayor of New York City.

PART 4. MAGISTRATES OF CITIES OUTSIDE OF NEW YORK CITY; POPULATIONS

City	Population in 1915	Title	Name	Term ends
Albany.....	107,979	Police Justice.....	John J. Brady.....	December 31, 1919
Amsterdam.....	34,319	Recorder.....	Walter I. Hover.....	December 31, 1918
Auburn.....	32,468	Recorder.....	Benn Kenyon.....	January 5, 1920
Batavia.....	13,278	Police Justice.....	George W. Babcock.....	December 31, 1916
Beacon.....	10,165	City Judge.....	Ferdinand A. Hoyt.....	March 31, 1919
Binghamton.....	53,668	City Judge.....	Harold L. Hart.....	December 31, 1919
Buffalo.....	454,630			
City Court.....				
		Chief Judge.....	William P. Brennan.....	December 31, 1919
		Associate Judge.....	Albert A. Hartzell.....	December 31, 1919
		Associate Judge.....	Peter Maul.....	December 31, 1917
		Associate Judge.....	George L. Hager.....	December 31, 1925
		Associate Judge.....	Patrick J. Keeler.....	December 31, 1919
		Associate Judge.....	Thomas H. Noonan.....	December 31, 1921
		Judge.....	George E. Judge.....	December 31, 1921
		Police Justice.....	Philip J. O'Keefe.....	December 31, 1919
Children's Court.....				
Canandaigua.....	7,501	Recorder.....	Daniel J. McElwain.....	July 1, 1916
Cohoes.....	23,433	City Judge.....	John C. Bostelman.....	December 31, 1917
Corning.....	13,459	City Judge.....	Elmer L. Thompson.....	December 31, 1916
Cortland.....	12,367	City Judge.....	Samuel P. Fox.....	December 31, 1919
Dunkirk.....	17,870	Recorder.....	Otis H. Gardner.....	December 31, 1917
Elmira.....	40,093	City Judge.....	Herbert J. Wilson.....	December 31, 1917
Fulton.....	11,138	City Judge.....	George F. Ditmars.....	December 31, 1921
Geneva.....	13,232	City Judge.....	Calhoun S. Enches.....	April 3, 1920
Glens Falls.....	16,323	City Judge.....	Fred M. Beckwith.....	April 3, 1920
Gloversville.....	21,178	Recorder.....	Daniel E. Lorentz.....	December 31, 1917
Hornell.....	14,352	Recorder.....	Fay P. Rathbun.....	December 31, 1917
Hudson.....	11,544	City Judge.....	Harold E. Fritts.....	December 31, 1918
Ithaca.....	16,750	City Judge.....	Daniel Crowley.....	December 31, 1919
Jamestown.....	37,780	Police Justice.....	John Maharon.....	April 9, 1918
Johnstown.....	10,687	Recorder.....	Edward Monahan.....	December 31, 1917
Kingston.....	26,354	Recorder.....	Andrew J. Lang.....	December 31, 1917

Lackawanna.....	16,737	City Judge.....	John J. Monaghan.....	December 31, 1917
Little Falls.....	13,022	Recorder.....	Daniel W. Collins.....	December 31, 1917
Lockport.....	18,693	Police Justice.....	William J. Hooper.....	December 31, 1918
Mechanicville.....	8,208	City Judge.....	T. J. Finigan.....	June 29, 1917
Middletown.....	16,381	Recorder.....		December 31, 1919
Mount Vernon.....	37,583	City Judge.....		December 31, 1919
Newburgh.....	27,876	Recorder.....		December 31, 1917
New Rochelle.....	31,758	City Judge.....	Peter Cantline.....	December 31, 1919
		Acting City Judge.....	Samuel F. Swinburne.....	December 31, 1919
Niagara Falls.....	42,257	Police Justice.....	John S. Biesel.....	December 31, 1917
North Tonawanda.....	13,498	City Judge.....	Charles H. Piper.....	December 31, 1919
Norwich.....	8,342	Police Justice.....	Edward B. Harrington.....	December 31, 1919
Ogdensburg.....	14,338	Recorder.....	H. D. Mallory.....	December 31, 1916
Olean.....	17,925	Police Justice.....	David H. Corcoran.....	December 31, 1916
Oneida.....	9,461	City Judge.....	Dennis W. Keating.....	December 31, 1917
Oneonta.....	10,474	City Judge.....	W. F. Santry.....	December 31, 1917
Oswego.....	25,426	Recorder.....	Henry Shove.....	December 31, 1917
Plattsburg.....	10,134	City Judge.....	Joseph H. Gill.....	December 31, 1917
Port Jervis.....	9,413	Justice of the Peace.....	J. S. Shedden.....	January 31, 1917
		Justices of the Peace.....	Wilton Bennet.....	December 31, 1917
Poughkeepsie.....	32,714	City Judge.....	William S. Bevans.....	December 31, 1919
Rensselaer.....	11,210	City Judge.....	George Overocker.....	December 31, 1917
Rochester.....	248,465	Police Justice.....	George W. Stevens.....	December 31, 1916
Rome.....	21,926	City Judge.....	Willis K. Gillette.....	December 31, 1919
Salamanoa.....	8,370	City Judge.....	F. S. Baker.....	December 31, 1919
Saratoga Springs.....	13,792	City Judge.....	Burdette Whipple.....	December 31, 1917
Schenectady.....	80,381	Police Justice.....	Charles B. Andrus.....	December 31, 1917
Syracuse.....	145,293	Justice.....	John J. McMullen.....	December 31, 1919
Tonawanda.....	9,147	City Judge.....	Benjamin J. Shove.....	December 31, 1917
Troy.....	75,488	City Judge.....	Charles J. Knoll.....	December 31, 1919
Utica.....	80,599	City Judge.....	James F. Byron.....	December 31, 1917
Watertown.....	26,885	City Judge.....	Fred E. Lewis.....	December 31, 1919
Watervliet.....	14,990	City Judge.....	Joseph A. McConnell.....	December 31, 1922
White Plains.....	19,287	City Judge.....	J. Sydney Forsyth.....	December 31, 1917
Yonkers.....	90,945	City Judge.....	Mortimer C. O'Brien.....	December 31, 1917
			Joseph H. Beall.....	December 31, 1917

PART 5. MAGISTRATES OF LOWER COURTS IN NEW YORK CITY

Court	Title	Name	Address	Term ends
Board of Magistrates. Manhattan and the Bronx.....	Chief City Magistrate..	William McAdoo.....	300 Mulberry St.....	June 30, 1920
	City Magistrate.....	Charles W. Appleton.....	545 West 148th St.....	June 30, 1921
	City Magistrate.....	Peter T. Barlow.....	471 Park Ave.....	April 30, 1923
	City Magistrate.....	Matthew P. Breen.....	521 West 112th St.....	June 30, 1922
	City Magistrate.....	Alexander Brough.....	41 Park Row.....	June 30, 1922
	City Magistrate.....	W. Bruce Cobb.....	234 Central Pk., West.....	July 8, 1925
	City Magistrate.....	Robert C. Cornell.....	116 East 58th St.....	April 30, 1923
	City Magistrate.....	Joseph E. Corrigan.....	77 Irving Pl.....	July 14, 1917
	City Magistrate.....	Joseph M. Deuel.....	125 West 80th St.....	April 30, 1917
	City Magistrate.....	Edgar V. Frothingham..	6 East 70th St.....	June 30, 1925
	City Magistrate.....	Frederick J. Groehl.....	233 Broadway.....	June 30, 1919
	City Magistrate.....	Charles N. Harris.....	120 East 72d St.....	April 30, 1917
	City Magistrate.....	Frederick B. House.....	435 Convent Ave.....	June 30, 1919
	City Magistrate.....	Morris Koenig.....	309 East 4th St.....	June 27, 1925
	City Magistrate.....	Paul Krotel.....	640 Madison Ave.....	June 30, 1919
	City Magistrate.....	Francis X. McQuade.....	532 West 111th St.....	June 30, 1922
	City Magistrate.....	Norman J. Marsh.....	400 West 153d St.....	July 14, 1917
	City Magistrate.....	Daniel F. Murphy.....	200 Central Pk., South.....	June 30, 1920
	City Magistrate.....	Thomas J. Nolan.....	9 Madison St.....	June 30, 1921
	City Magistrate.....	Charles E. Simms.....	11 Wall St., Room 50.....	June 30, 1923
	City Magistrate.....	Robert C. Ten Eyck.....	2 Rector St., Room 316.....	April 30, 1917
Brooklyn, Queens and Richmond.....	City Magistrate.....	James J. Conway.....	9 Jackson Ave., Long Island City.....	July 18, 1917
	City Magistrate.....	Charles J. Dodd.....	845 Lafayette Ave., Brooklyn.....	April 30, 1921
	City Magistrate.....	Edward J. Dooley.....	232 Clermont Ave., Brooklyn.....	May 21, 1921
	City Magistrate.....	O. Grant Esterbrook.....	639 Putnam Ave., Brooklyn.....	June 30, 1925
	City Magistrate.....	Samuel H. Evins.....	112 Stuyvesant Pl., St. George, S. I.....	January 7, 1926

Court of Special Sessions	City Magistrate.....	Joseph Fitch.....	118 Amity St., Flushing.....	December 31, 1917
	City Magistrate.....	George H. Folwell.....	372 Washington Ave., Brooklyn.....	December 31, 1917
	City Magistrate.....	Alexander H. Gelamar.....	1210 82d St., Brooklyn.....	December 31, 1917
	City Magistrate.....	Joseph B. Handy.....	I.....	July 31, 1917
	City Magistrate.....	John Kochendorfer.....	I, S. I.....	March 8, 1926
	City Magistrate.....	John C. McGuire.....	.....	April 30, 1921
	City Magistrate.....	Harry Miller.....	.....	December 31, 1917
	City Magistrate.....	Howard P. Nash.....	.....	June 30, 1919
	City Magistrate.....	John Neuner.....	.....	April 30, 1921
	City Magistrate.....	Louis H. Reynolds.....	.....	April 30, 1921
	City Magistrate.....	Alfred E. Steers.....	.....	April 30, 1921
	City Magistrate.....	A. V. B. Voorhees.....	.....	July 2, 1923
	City Magistrate.....	John J. Walsh.....	Brooklyn.....	December 31, 1919
	Chief Justice.....	Frederic Kernochan.....	.....	April 30, 1921
	Associate Justice.....	Cornelius F. Collins.....	319 East 30th St., New York city.....	June 30, 1926
	Associate Justice.....	Clarence Edwards.....	Elmhurst, L. I.....	May 2, 1922
	Associate Justice.....	John J. Freschi.....	city.....	March 9, 1926
	Associate Justice.....	Edward L. Garvin.....	city.....	June 30, 1925
	Associate Justice.....	Henry W. Herbert.....	city.....	December 31, 1919
	Associate Justice.....	Moses Herrman.....	city.....	July 9, 1925
	Associate Justice.....	James J. McInerney.....	city.....	June 30, 1921
Children's Court.....	Associate Justice.....	Joseph F. Moss.....	.....	December 31, 1921
	Associate Justice.....	George J. O'Keefe.....	.....	June 30, 1920
	Associate Justice.....	Arthur C. Salmon.....	147 Joralemon St., Brooklyn.....	December 31, 1917
	Presiding Justice.....	Franklin Chase Hoyt.....	Westchester, N. Y.....	June 30, 1919
	Justice.....	Samuel D. Levy.....	2 West 89th St., New York city.....	June 30, 1917
	Justice.....	John B. Mayo.....	216 West 100th St., New York city.....	June 30, 1917
	Justice.....	Morgan M. L. Ryan.....	New Brighton, S. I.....	January 20, 1924
	Justice.....	Robert J. Wilkin.....	211 Clinton St., Brooklyn.....	April 15, 1923

PART 6. CITIES — POLICE, CHARITY AND SCHOOL OFFICIALS

CITY	Chief of Police	Superintendent of Schools	Charity Official
Albany.....	James L. Hyatt.....	C. Edward Jones.....	aAlwin C. Quentel
Amsterdam.....	Fred W. Packwood.....	Harrison T. Morrow.....	aJ. Arthur Boswell
Auburn.....	William C. Bell.....	Henry D. Hervey.....	iFrank J. Lattimore
Batavia.....	Anthony Horach.....	Elwin A. Ladd.....	aJohn W. Coupland
Beacon.....	Theodore Moith.....	George F. DuBois.....	John T. Cronin
Binghamton.....	Cornelius P. Cronin.....	D. J. Kelly.....	aCharles P. Austin
Buffalo.....	John Martin*.....	Henry P. Emerson.....	aWilliam Hunt
Canandaigua.....	Henry C. Beaman.....	Luther N. Steele.....	bAlbert F. Avery
Cohoes.....	James W. Schofield.....	Edward Haywood.....	bArthur Senecal
Corning.....	Charles G. Hammer.....	H. H. Chapman.....	bGeorge E. Satterly
Cortland.....	Fred Bowker.....	A. M. Blodgett.....	
Dunkirk.....	Frederick W. Quandt.....	F. E. Smith.....	bEster Denton
Elmira.....	Elvin D. Weaver.....	N. L. Englehardt.....	aJames R. Somers
Fulton.....	Edward J. Dyer.....	Asher J. Jacoby.....	fE. J. Broderick
Geneva.....	Daniel Kane.....	J. R. Fairgrievs.....	
Glens Falls.....	Fred G. Jenkins.....	A. J. Merrill.....	
Gloversville.....	George R. Smith.....	E. W. Griffith.....	
Hornell.....	Clarence Bailey.....	James A. Estes.....	
Hudson.....	James J. Lane.....	E. S. Redman.....	
		Charles S. Williams.....	
Ithaca.....	William Marshall.....	F. D. Boynton.....	cMrs. C. S. Benedict
Jamestown.....	Frank A. Johnson.....	R. R. Rogers.....	aJohn R. Comings
Johnstown.....	Peter Joyce.....	Erle L. Ackley.....	aM. A. Waller
Kingston.....	J. Allan Wood.....	Myron J. Michael.....	aJohn T. Selmer
Lackawanna.....	Ray R. Gilson.....	A. H. Mathewson.....	eWesley Waterbury
Little Falls.....	James J. Long.....	John A. DeCamp.....	aHenry J. Twist
Lockport.....	Hugh Smith.....	Emmet Belknap.....	bRichard N. Casler
Mechanicville.....	William B. Davry.....	George F. Hall.....	aCharles Scott
			aFrank H. Moak

Middletown.....	John D. McCoach.....	James F. Tutbill.....	f Charles B. Wood
Mount Vernon.....	Jeremiah C. Foley.....	W. H. Holmes.....	a Lorin Clark
Newburgh.....	Fred G. Brown.....	James M. Crane.....	f William W. Collins
New Rochelle.....	Edward J. Timmons.....	Albert D. Leonard.....	a George M. Jackson
New York.....	Arthur H. Woodst.....	William H. Maxwell.....	a John A. Kingsbury
Niagara Falls.....	John A. Curry.....	H. F. Taylor.....	a Louis Eimer
North Tonawanda.....	John F. Ryan.....	R. A. Searing.....	a Anthony E. Lewis
Norwich.....	Fred McMullen.....	S. J. Gibson.....	a George A. Crane
Ogdensburg.....	M. T. Power.....	Francis C. Byrne.....	b James E. Lum
Olean.....	George C. Russell.....	D. E. Batchelor.....	b L. H. Brooker
Oneida.....	Austin Wilcox.....	Daniel Keating.....	a Lysle R. Dunbar
Oneonta.....	Thomas W. Blizard.....	George J. Dann.....	a E. A. Collar
Oswego.....	Thomas Mowatt.....	Charles W. Richards.....	c George Marrin
Plattsburg.....	Eli Senecal.....	Frank K. Watson.....	a Edgar A. Defore
Port Jervis.....	Frank A. Brown.....	Arthur H. Naylor.....	a Thomas J. Bonnell
Poughkeepsie.....	Charles J. McCabe.....	S. R. Shear.....	a D. W. Hitchcock
Rensselaer.....	Thomas Fahey.....	A. Z. Boothby.....	
Rochester.....	Joseph M. Quigley.....	Herbert S. Weet.....	
Rome.....	William J. Keating.....	G. R. Staley.....	g N. K. Graves
Salamanca.....	W. J. Fellows.....	A. W. Fortune.....	a E. A. Case
Saratoga Springs.....	James H. King.....	Charles L. Mosher.....	k William B. Milliman
Schenectady.....	James W. Rynex.....	Herbert Blair.....	a Robert T. Hill
Syracuse.....	Martin L. Cadin.....	Percy M. Hughes.....	a Jay M. Strong
Tonawanda.....	Arthur F. Elliott.....	Frank K. Sutley.....	a Joseph Franks
Troy.....	Charles W. Gerold.....	Arvie E. Eldred.....	a G. B. Fitzgerald
Utica.....	John J. Coakley.....	Wilbur B. Sprague.....	a Edward P. Kelly
Watertown.....	E. J. Singleton.....	Frank S. Tisdale.....	i Patrick Redmond
Watervliet.....	John J. O'Brien.....	Hugh H. Lansing.....	a Thomas F. Mahar
White Plains.....	John H. Harmon.....	J. W. Lumbard.....	j Annie R. Henderson
Yonkers.....	Daniel Wolff.....	Charles E. Gorton.....	a Alfred Fox

a Commissioner of Charities. b Overseer of the Poor. c Clerk of Poor Department. d Postmaster. e President of Board of Alms Commissioners.
 f Superintendent of Poor. g Superintendent of City Home. h Superintendent of Board of Charities.
 i Superintendent of Police. j Director of Charities. k Education. l Director of Public Safety.

PART 7. VILLAGE POLICE JUSTICES

Village	Population in 1915	County	Police Justice	Term ends
Adams	1,571	Jefferson	Albert F. Saunders	December 31, 1916
Addison	1,754	Steuben	W. A. Bartlett*	December 31, 1917
Akron	1,856	Erie	George E. Cady	December 31, 1918
Albion	5,988	Orleans	Henry C. Tucker	March 1, 1917
Alexandria Bay	2,062	Jefferson	C. A. Benson*	December 31, 1917
Amityville	2,780	Suffolk	Franklin S. Purdy*	December 31, 1917
			V. C. Beebe*	December 31, 1919
Arcade	1,568	Wyoming	Lynn S. Bentley*	December 31, 1917
Athens	1,925	Greene	Orin Q. Flint	December 31, 1919
Attica	2,013	Wyoming	Charles B. Prestcott*	December 31, 1917
Avon	2,430	Livingston	Edward A. Noble	December 31, 1920
Babylon	3,100	Suffolk	James B. Connor*	December 31, 1919
Baldwinsville	3,220	Onondaga		December 31, 1919
			Frank D. Groat	December 31, 1918
Ballston Spa	4,344	Saratoga	Charles H. Moore, Jr.	March 1, 1918
Bath	4,173	Steuben	J. A. Bateman*	December 31, 1917
Boonville	1,909	Oneida	Homer B. Benedict	December 31, 1919
Brockport	3,368	Monroe	Henry M. Hoop	March 19, 1917
Bronxville	2,240	Westchester	Eliot B. Norton	April 3, 1917
Cambridge	1,727	Washington	George J. Skinner	March 13, 1917
Camden	2,181	Oneida	Howard H. Borst*	December 31, 1920
Canajoharie	2,474	Montgomery	Harry W. Ehle	March 1, 1918
Canastota	3,849	Madison	C. C. Burrell	March 31, 1917
Canisteo	2,314	Steuben	C. Y. Fullington*	December 31, 1919
Canton	2,624	St. Lawrence	Leon G. Cray*	December 31, 1917
			John R. Thorpe	March 1, 1920
Carthage	3,871	Jefferson	John H. Porter	December 31, 1917
Castleton	1,583	Rensselaer	R. D. Miller	December 31, 1916
Catskill	5,371	Greene		

Cazenovia.....	1,928	Madison.....	H. J. Rouse.....	December 31, 1919
Cedarhurst.....	2,657	Nassau.....	Lewis M. Raisig*.....	December 31, 1919
Chatham.....	2,389	Columbia.....	Cornelius Shufelt.....	December 31, 1919
Clayton.....	1,879	Jefferson.....	H. D. Cole*.....	December 31, 1919
Clifton Springs.....	1,664	Ontario.....	Truman V. Fox.....	December 31, 1919
Clyde.....	2,699	Wayne.....	James L. Howard.....	December 31, 1919
Cobleskill.....	2,362	Schoharie.....	Francis L. Smith.....	December 31, 1916
Cooperstown.....	2,634	Otsego.....	George Vanderwerker*.....	December 31, 1917
Corinth.....	2,415	Saratoga.....	Thomas Brady*.....	December 31, 1919
			Charles L. Duel*.....	December 31, 1917
			M. T. Jones*.....	December 31, 1917
			Emer G. Perkins*.....	December 31, 1919
Cornwall.....	2,240	Orange.....	Samuel Dunne, Sr.*.....	December 31, 1919
Coxsackie.....	2,309	Greene.....	Newton A. Calkins.....	December 31, 1918
Croton-on-Hudson.....	2,243	Westchester.....	B. F. Decker*.....	December 31, 1916
Cuba.....	1,645	Allegany.....	H. D. Bliss*.....	December 31, 1918
Dansville.....	4,018	Livingston.....	F. J. Alverson.....	March 1, 1917
Delhi.....	1,743	Delaware.....	Charles T. Telford*.....	December 31, 1919
Depew.....	4,932	Erie.....	James D. Higgins.....	December 31, 1916
Deposit.....	1,779	Broome and Delaware.....	E. H. Carroll.....	March 1, 1917
Dobbs Ferry.....	4,030	Westchester.....	Hugh A. Thornton.....	December 31, 1917
Dolgeville.....	3,326	Herkimer and Fulton.....	W. H. Baker*.....	December 31, 1917
			A. L. Leavitt*.....	December 31, 1917
East Aurora.....	3,445	Erie.....	Frank O. Persons*.....	December 31, 1919
			D. A. Spencer*.....	December 31, 1917
East Rochester.....	3,471	Monroe.....	George Evans.....	December 31, 1919
East Rockaway.....	1,607	Nassau.....	W. P. W. Haff, Jr.....	December 31, 1918
East Syracuse.....	3,839	Onondaga.....	Nelson L. Lansing.....	December 31, 1917
Ellenville.....	3,073	Ulster.....	Cleon B. Murray.....	December 31, 1919
Elmira Heights.....	3,154	Chemung.....	E. Z. Wood.....	December 31, 1917
Endicott.....	5,581	Broome.....	G. F. Eckert.....	March 15, 1918
Fairport.....	3,556	Monroe.....	Hugh D. Miller.....	March 1, 1917
Falconer.....	2,342	Chautauqua.....	Squire Howe*.....	December 31, 1919
			M. H. Davis*.....	December 31, 1917
Farmingdale.....	1,856	Nassau.....	Charles Budill.....	December 31, 1920
Fayetteville.....	1,779	Onondaga.....	Andrew W. Wilkin*.....	December 31, 1917

VILLAGE POLICE JUSTICES — Continued

VILLAGE	Population in 1915	County	Police Justice	Term ends
Floral Park.....	1,771	Nassau.....	Henry E. Foster.....	December 31, 1917
Fort Edward.....	3,662	Washington.....	Fred J. Betts*.....	December 31, 1919
			Willard Robinson*.....	December 31, 1919
Fort Plain.....	2,923	Montgomery.....	Charles J. Wood.....	December 31, 1917
			K. O. Barton*.....	December 31, 1917
Frankfort.....	4,213	Herkimer.....	Richard Rose.....	December 31, 1918
Franklinville.....	2,065	Cattaraugus.....	G. C. Ames.....	March 1, 1919
Fredonia.....	5,328	Chautauqua.....	S. Ray Fairbanks*.....	December 31, 1919
Freeport.....	7,463	Nassau.....	Clinton M. Flint.....	December 31, 1919
Geneseo.....	2,253	Livingston.....	Elliott A. Horton.....	April 1, 1919
Goshen.....	3,511	Orange.....	Charles C. Chappell.....	December 31, 1917
Gouverneur.....	4,164	St. Lawrence.....	George W. Parker.....	December 31, 1919
Gowanda.....	2,524	Cattaraugus and Erie.....	Elwin A. Bartlett*.....	December 31, 1917
			John W. Schatt*.....	December 31, 1917
Granville.....	3,890	Washington.....	A. M. Martin.....	December 31, 1919
Green Island.....	4,533	Albany.....	Henry Farmer*.....	December 31, 1919
			Albert Wolf*.....	December 31, 1917
Greenport.....	3,735	Suffolk.....	J. Willard Preston.....	December 31, 1916
Greenwich.....	2,315	Washington.....	James White.....	December 31, 1916
Hamburg.....	2,744	Erie.....	A. C. Stoltz.....	December 31, 1916
Hamilton.....	1,586	Madison.....	Charles W. Underhill*.....	December 31, 1917
Hammondsport.....	1,560	Steuben.....	Harry M. Benner.....	December 31, 1916
Hastings-on-Hudson.....	5,461	Westchester.....	James E. Hogan.....	December 31, 1916
Haverstraw.....	5,418	Rockland.....	Dayton W. Johnson.....	December 31, 1920
Hempstead.....	6,073	Nassau.....	Walter R. Jones*.....	December 31, 1917
Herkimer.....	9,577	Herkimer.....	W. H. Whitehead.....	December 31, 1918
Highland Falls.....	2,518	Orange.....	Moses F. Nelson*.....	December 31, 1919
Holley.....	1,780	Orleans.....	Frederick W. Church*.....	December 31, 1916
Homer.....	2,871	Cortland.....	W. J. Stafford.....	December 31, 1917
Hoosick Falls.....	5,406	Rensselaer.....	Sylvester E. Scott.....	March 31, 1918

Horseheads.....	1,949	Chemung.....	L. M. Brown.....	December 31, 1919
Hudson Falls.....	5,585	Washington.....	A. N. Richards.....	December 31, 1920
Ilion.....	8,900	Herkimer.....	Elliott T. Lester.....	March 31, 1920
Irvington.....	2,379	Westchester.....	Irving M. Taylor.....	December 31, 1919
Keeseville.....	1,795	Clinton and Essex.....	S. E. Wolcott*.....	December 31, 1917
Kenmore.....	1,700	Erie.....	Frank D. Booth.....	December 31, 1919
Lake Placid.....	1,977	Essex.....	Thomas A. Leahy*.....	December 31, 1919
Lancaster.....	5,094	Erie.....	Joseph Adolf.....	April 20, 1917
Larchmont.....	2,060	Westchester.....	A. H. Bierwirth*.....	December 31, 1917
LaSalle.....	2,402	Niagara.....	John H. Mason.....	March 31, 1917
Lawrence.....	1,870	Nassau.....	J. Russell Sprague.....	December 31, 1918
LeRoy.....	4,084	Genesee.....	Scott W. Skinner, Jr.....	May 1, 1917
Lestershire.....	5,400	Broome.....	W. F. Ingerson.....	December 31, 1919
Liberty.....	2,395	Sullivan.....	Henry Grant*.....	December 31, 1916
Liverpool.....	1,591	Onondaga.....	George B. Dolsen*.....	December 31, 1917
Lowville.....	3,244	Lewis.....	Charles S. Mereness*.....	December 31, 1919
Lynbrook.....	3,055	Nassau.....	Edward T. Neu.....	December 31, 1919
Lyons.....	4,742	Wayne.....	James C. Sheffield.....	March 15, 1918
Malone.....	7,404	Franklin.....	Frank Bigelow.....	December 31, 1918
Mamaroneck.....	7,290	Westchester.....	William A. Boyd*.....	December 31, 1920
			Patrick H. Collins*.....	December 31, 1920
			E. L. C. Robbins*.....	December 31, 1916
			Louis Taylor*.....	December 31, 1916
			George E. Britton*.....	December 31, 1917
Massena.....	4,614	St. Lawrence.....	G. A. Chase*.....	December 31, 1919
			Fred B. Skinner.....	December 31, 1917
Medina.....	6,079	Orleans.....	John Buhler.....	December 31, 1917
Mineola.....	2,318	Nassau.....	Fred M. Graves*.....	December 31, 1917
Mohawk.....	2,577	Herkimer.....	John B. Gregory.....	December 31, 1919
Monroe.....	1,519	Orange.....	Sanford D. Case*.....	December 31, 1917
Monticello.....	2,132	Sullivan.....	William Fitzsimmons*.....	December 31, 1916
			K. D. L. Niven*.....	December 31, 1917
			A. Robinson*.....	December 31, 1916
Mt. Kisco.....	2,902	Westchester.....	William C. DuFrane.....	December 31, 1916
Mt. Morris.....	3,884	Livingston.....	C. W. Gamble.....	January 31, 1917
Newark.....	6,468	Wayne.....	Gordon G. Harris.....	March 31, 1917

VILLAGE POLICE JUSTICES — Continued

VILLAGE	Population in 1915	County	Police Justice	Term ends
North Pelham.....	1,874	Westchester.....	Justice of the Peace	December 31, 1916
Northport.....	2,527	Suffolk.....	Charles B. Partridge*	December 31, 1917
North Tarrytown.....	4,877	Westchester.....	Bernard H. Foley*	December 31, 1917
			Traverse A. Armstrong*	December 31, 1917
Northville.....	1,635	Fulton.....	Lee S. Anibal.....	December 31, 1917
Norwood.....	1,879	St. Lawrence.....	H. H. Bailey*	December 31, 1917
Nyack.....	4,291	Rockland.....	Walter S. Gedney.....	December 31, 1919
Ossining.....	10,326	Westchester.....	Irving Valentine.....	May 1, 1917
Owego.....	4,570	Tioga County.....	Addison J. Robison.....	December 31, 1916
Oxford.....	1,594	Chenango.....	George A. Purdy*	December 31, 1919
Palmyra.....	2,469	Wayne.....	C. W. Williamson.....	April 5, 1917
Patchogue.....	4,506	Suffolk.....	Clarence W. Coleman.....	December 31, 1918
Peekskill.....	15,502	Westchester.....	J. Wesley Barker.....	March 1, 1917
Penn Yan.....	4,725	Yates.....	William H. Fiero*	December 31, 1920
			Abraham Gridley*	December 31, 1917
Perry.....	5,009	Wyoming.....	D. H. Stoll*	December 31, 1917
Philmont.....	2,060	Columbia.....	W. D. Olmsted.....	December 31, 1917
Phoenix.....	1,655	Oswego.....	Frank B. Lindsay.....	March 1, 1917
Pleasantville.....	2,464	Westchester.....	Richard D. Latham.....	March 1, 1919
Port Chester.....	15,129	Westchester.....	James E. Moore.....	December 31, 1919
Port Henry.....	2,584	Essex.....	Edward V. Brophy.....	May 15, 1917
			Lee W. Burhams*	December 31, 1917
			Fred J. Ring*	December 31, 1919
Potsdam.....	4,157	St. Lawrence.....	Nathan E. Clark, Jr.*	December 31, 1919
Pulaski.....	1,860	Oswego.....	George W. Morton*	December 31, 1919
Ravena.....	1,700	Albany.....	William H. Shear.....	March 24, 1917
Rhinebeck.....	1,580	Dutchess.....	Eugene Van Wagenen.....	March 5, 1917
Richfield Springs.....	1,623	Otsego.....	James A. Storey.....	December 31, 1919
Rockville Center.....	5,233	Nassau.....	Harrison B. Wright.....	December 31, 1918

Rouses Point.....	1,783	Clinton	A. W. Getty*	December 31, 1918
Rye.....	5,339	Westchester	R. N. Edwards	December 31, 1916
Sag Harbor.....	3,245	Suffolk	Cortland Kiernan	December 31, 1919
St. Johnsville.....	2,705	Montgomery	Charles W. Lambert	December 31, 1919
Saranac Lake.....	4,918	Essex and Franklin	S. A. Miller*	December 31, 1919
Saugerties.....	4,490	Ulster	Benjamin N. Coon	December 31, 1917
Scarsdale.....	2,717	Westchester	William Mercer	December 31, 1919
Schuylerville.....	1,711	Saratoga	A. G. Barrie*	December 31, 1919
Scotia.....	3,790	Schenectady	C. O. Heinstreet*	December 31, 1919
			Dudley T. Hill*	December 31, 1919
			Charles Snyder, Jr.*	December 31, 1917
Ses Cliff.....	1,981	Nassau	Henry Schaefer	December 31, 1919
Seneca Falls.....	7,018	Seneca	Alexander J. Byrne	December 31, 1917
Sydney.....	2,641	Delaware	William H. Pierce	December 31, 1916
Silver Creek.....	3,220	Chautauque	Eugene Stewart*	December 31, 1917
Skaneateles.....	1,768	Onondaga	W. A. Giles*	December 31, 1916
Sloan.....	2,202	Erie	William Brennan, Sr.	March 1, 1917
Solvay.....	5,886	Onondaga	William Bowers	December 31, 1917
Southampton.....	3,092	Suffolk	L. F. Jennings	December 31, 1917
South Glens Falls.....	1,950	Saratoga		December 31, 1920
			Edwin R. Varney*	December 31, 1918
South Nyack.....	1,950	Rockland	William Washburn*	December 31, 1920
Spring Valley.....	2,804	Rockland	Charles T. Wadsworth	December 31, 1918
Springville.....	2,688	Erie	Charles B. Fisher	December 31, 1919
Suffern.....	2,781	Rockland	William H. Warner	December 31, 1917
Tarrytown.....	5,752	Westchester	Edgar Tilton	December 31, 1918
Ticonderoga.....	2,754	Essex	William B. Moorhouse	December 31, 1919
			H. J. Belden*	December 31, 1919
			W. E. Henry*	December 31, 1919
			John Phillips*	December 31, 1919
			P. F. Roberts*	December 31, 1917
Tuckahoe.....	2,753	Westchester	Benjamin B. Riley	December 31, 1920
Tupper Lake.....	3,910	Franklin	John A. Chalmers	December 31, 1919
Union.....	1,922	Broome	J. L. Lusk	December 31, 1916
Walden.....	5,196	Orange	John C. Holtrow	December 31, 1919

VILLAGE POLICE JUSTICES — *Concluded*

VILLAGE	Population in 1915	County	Police Justice	Term Ends
Walton.....	3,606	Delaware.....	T. Sanderson.....	December 31, 1916
Wappinger's Falls.....	3,742	Dutchess.....	Holmes Vandewater*	December 31, 1919
Warsaw.....	3,424	Wyoming.....	J. A. McFarlane.....	December 31, 1920
Warwick.....	2,505	Orange.....	J. V. D. Benedict.....	December 31, 1917
Waterford.....	3,047	Saratoga.....	Herbert R. Van Kleeck*	December 31, 1919
			H. W. Turner*	December 31, 1919
Waterloo.....	4,343	Seneca.....	Clarence Ten Eyck.....	December 31, 1918
Waterville.....	1,564	Oneida.....	Gordon W. Stetson*	December 31, 1917
Watkins.....	2,760	Schuyler.....	S. Peter Rosseau.....	March 31, 1917
Waverly.....	5,119	Tioga.....	Charles O. Hoagland.....	December 31, 1919
Wayland.....	1,699	Steuben.....	C. J. Weiermiller*	December 31, 1917
Wellsville.....	4,595	Allegany.....	F. M. Leonard.....	December 31, 1919
West Carthage.....	1,587	Jefferson.....	Clarence T. Wright.....	March 1, 1920
Westfield.....	3,319	Chautauqua.....	James H. Prendergast*	December 31, 1916
West Haverstraw.....	2,330	Rockland.....	William H. Eckroyd*	December 31, 1918
			John Evans*	December 31, 1920
Whitehall.....	4,666	Washington.....	A. D. Bartholomew.....	December 31, 1917
Whitesboro.....	2,493	Oneida.....	Charles T. Sperry.....	April 14, 1917

* Justice of the peace, acting as village police justice.

SECTION 4

DIRECTORY OF PUBLIC INSTITUTIONS

INSTITUTIONS FOR BOYS UNDER 16 YEARS OF AGE AT TIME OF COMMITMENT

Name of institution	Location	Administrative head	Laws relating to institution	Territory from which institution receives commitments	Persons received on commitment
^d nd for	Industry, Monroe County.	David Bruce, Superintendent.	State Charities Law, §§ 180-184; Penal Law, § 2184.	4th, 5th, 6th, 7th and 8th judicial districts.	are, / or as disorderly or ungovernable children.
New York House of Refuge.	Randall's Island, New York city.	Col. Edward C. Barber, Superintendent.	State Charities Law §§ 180-184; Penal Law, § 2184.	1st, 2d, 3d and 9th judicial districts.	To be superseded by the State Training
New York State Training School for Boys.	Yorktown Heights.	Superintendent.	Laws of 1911, chapter 638, Penal Law, § 2184.	1st, 2d, 3d and 9th judicial districts.	When completed will receive boys under the age of 16 years, committed for delinquency, vagrancy or as disorderly or ungovernable children.
Private Institutions	(See directory of State Board of Charities.)				

INSTITUTIONS FOR GIRLS UNDER 16 YEARS OF AGE AT TIME OF COMMITMENT

Name of institution	Location	Administrative head	Laws relating to institution	Territory from which institution receives commitments	Persons received on commitment
State Training School New York State Training School for Girls.	Hudson, Columbia County.	Dr. Hortense V. Bruce, Superintendent.	State Charities Law, §§ 199-213; Penal Law, § 2184.	Any part of the State.	Receives girls, under the age of 16 years, committed for delinquency, vagrancy or as disorderly or ungovernable children.
Private Institutions	(See directory of State Board of Charities.)				

INSTITUTIONS FOR MEN

Name of institution	Location	Administrative head	Laws relating to institution	Territory from which institution receives commitments	Persons received on commitment
State Prisons Auburn	Auburn, Cayuga County.	Charles F. Rattigan, Warden.	Prison Law, §§ 70- 74; Penal Law, §§ 2183, 2198.	5th, 6th, 7th and 8th judicial districts.	Receives males 16 years or older, con- one term in prison.
Clinton ..	Dannemora, Clinton County.	John D. Trombly, Warden.	Prison Law, §§ 70- 74; Penal Law, §§ 2183, 2198.	3d and 4th judicial districts.	Receives males 16 years or older convicted one term in prison.
Great Meadow ..	Comstock, Washing- ton County	William J. Homer, Warden	Laws of 1909, chap- ter 459	Receives prisoners on transfer from other prisons only	Receives prisoners by transfer from other prisons.
Elgin Sing ..	Ossining, Westches- ter County.	Thos Mott Osborne, Warden.	Prison Law, §§ 70- 74; Penal Law, §§ 2183, 2198.	1st, 2d and 9th judi- cial districts.	Receives males, 16 years or older, con- victed for the first time of a felony, or of being an habitual criminal.
State Reformatories New York State Reform- atory for Men.	Elmira, Chemung County.	Patrick J. McDon- nell, Superintend- ent.	Prison Law, §§ 280- 308; Penal Law, § 2185.	Any part of the State.	16 and 30 years the first time of
Eastern State's Reform- atory for Men	Napanoch, Ulster County.	George Deyo, Assist- ant Superintend- ent	Prison Law, §§ 280- 308.	By transfer from El- mira.	Receives prisoners by transfer from the State Reformatory at Elmira.
State Hospitals for Insane Criminals and Insane Dannemora State Hos- pital.	Dannemora, Clinton County	Charles H. North, M. D., Superin- tendent.	Insanity Law, §§ 140-153.	Any part of the State.	Receives adult males declared insane while confined in State prison or reformatory or while serving a penitentiary sentence of more than one year for a felony.

Mattawana State Hos- pital.	Mattawana, Dutch- ess County.	Raymond F. C. Kiehl, M. D., Med- ical Superintendent.	Insanity Law, §§ 110-125; Penal Law, §§ 454, 736.	Any part of the R State.	
State Farm Industrial Farm Colony	Green Haven, Dutchess County.	None yet appointed.	Laws of 1911, chap- ter 812.	Any part of the State.	over the age of 21, vagrants or tramps; it not to be in any case over two years.
Penitentiaries Albany County.....	Albany.....	James D. Patton, Custodian.	Penal Law, §§ 2182, 2186, 2188; Prison Law, §§ 320-324. County Law, § 12 (The above laws apply to all peni- tentiaries.)	Each penitentiary receives commit- ments from the county in which it is located and also by contract from other counties.	Receives males 16 years old or older, sentenced to imprisonment for not less than sixty days nor more than one year.
Erie County.....	Buffalo.....	Harry M. Kaiser, Superintendent.			
Monroe County.....	Rochester.....	William H. Craig, Superintendent			
Onondaga County.....	Jamesville.....	John S. Markell, Superintendent.]			
New York.....	Blackwell's Island, Manhattan.	John J. Murtha, Warden.	Greater New York Charter.	New York city.....	Receives adult males convicted of mis- demeanors and minor offenses, for terms of 30 days or upwards.
County Jails	Albany Belmont. Binghamton. Little Valley. Auburn. Mayville. Elmira. Norwich. Plattsburg. Hudson. Cortland. Delhi.	The sheriff of the county is the war- den of the county jail. For names of sheriffs see Section 3, Part 3, of this Directory.	Penal Law, §§ 2181, Law, county 92 laws county	Each county jail receives commit- ments from courts in the county in which the jail is located.	Receives or to or less. Note: ("Persons in custody on civil process, or committed for contempt, or detained, as witnesses, shall not be put or kept in the same room with persons detained for trial or examination upon a criminal charge, or with convicts under sentence. Persons detained for trial or

INSTITUTIONS FOR MEN—Continued

Name of institution	Location	Administrative head	Laws relating to institution	Territory from which institution receives commitments	Persons received on commitment
Poughkeepsie.	Poughkeepsie.				
Buffalo.	Buffalo.				
Elizabethtown	Elizabethtown				
Malone.	Malone.				
Johnstown	Johnstown				
Batavia.	Batavia.				
Catskill	Catskill				
Lake Pleasant.	Lake Pleasant.				
Herkimer.	Herkimer.				
Watertown.	Watertown.				
Brooklyn.	Brooklyn.				
Lowville.	Lowville.				
Geneseo.	Geneseo.				
Wampsville.	Wampsville.				
Rochester.	Rochester.				
Fonda.	Fonda.				
Mineola.	Mineola.				
New York city.	New York city.				
Lockport.	Lockport.				
Rome.	Rome.				
Utica	Utica				
Jamecaville	Jamecaville				
Canandaigua.	Canandaigua.				
Goshen.	Goshen.				
Newburgh.	Newburgh.				
Albion.	Albion.				
Oswego.	Oswego.				
Pulaski	Pulaski				
Cooperstown.	Cooperstown.				
Carmel	Carmel				
Long Island City.	Long Island City.				
Troy	Troy				
Richmond	Richmond				
New City	New City				
Canton.	Canton.				
Ballston Spa.	Ballston Spa.				
Schenectady.	Schenectady.				
Schoharie.	Schoharie.				
Watkins.	Watkins.				
Oneida County Jail....					
Onondaga County Jail..					
Ontario County Jail..					
Orange County Jail					
Orleans County Jail....					
Oswego County Jail...:					
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County Jail..					

Saratoga County
Staten County

Yates County
New York Institution
New York City
History of
Antiquities

Workhouse.

Branch Work

City Prison
Tombs."

2d District.

3d District.

4th District
5th District

6th District

7th District
8th District

9th District

10th District

INSTITUTIONS FOR MEN—Concluded

Name of institution	Location	Administrative head	Laws relating to institution	Territory from which institution receives commitments	Persons received on commitment
City Prison, Brooklyn...	149 Raymond St., Brooklyn.	John Hayes, Warden.	Greater New York Charter.	Borough of Brooklyn	Receives persons held for trial in the County Court of Kings County; also those sentenced for short terms for misdemeanors.
City Prison, Queens...	Court Square and Jackson Ave., Long Island City.	Robert Barr, Deputy Warden.	Greater New York Charter	Borough of Queens...	Receives persons held for trial in the County Court of Queens County; also those sentenced for short terms for misdemeanors.
Farm for Inebriates	Warwick, N. Y.	Dr. Charles F. Stokes, Medical Director.	Chap. 551, Laws of 1910 Chap. 327, Laws of 1915.	New York city.....	gation and after care.

* Department of Correction, Municipal Building (Burdette G. Lewis, Commissioner), has charge of all public correctional institutions in New York city.

INSTITUTIONS FOR WOMEN

Name of institution	Location	Administrative head	Laws relating to institution	Territory from which institution receives commitments	Persons received on commitment
<i>State Prison</i> State Prison for Women.	Auburn, County.	Charles F. Rattigan, Warden.	Prison Law, §§ 90-100, Penal Law, § 2187.	Any part of the State.	Receives females sixteen years old or older convicted of a felony or of being an habitual criminal.
<i>State Reformatories</i> New York State Reformatory for Women.	Bedford, Westchester County.	Mary Rebecca Moore, Superintendent.	State Charities Law, §§ 220-233.	1st, 2d, 3d, and 9th judicial districts.	R.
Western House of Refuge for Women.	Albion, County.	Mrs. Flora E. Daniels, Superintendent.	State Charities Law, §§ 220-233.	4th, 5th, 6th, 7th and 8th judicial districts.	of the institution Receives females from 16 to 30 years of age, convicted of a misdemeanor, vagrancy, habitual drunkenness, being a common prostitute, or frequenting disorderly houses or houses of prostitution, and who are not insane, nor mentally nor physically incapable of being substantially benefited by the discipline of the institution.
<i>State Farm</i> State Farm for Women.	Valatie, County.	Mrs. Jane L. Armstrong, Warden.	Laws of 1908, chapter 467.	Any part of the State.	over 30 years manner or any have been con- during the two c.
<i>State Hospitals</i> State Hospitals for insane convicts and insane criminals. (Same as for men.)	.....	.....	Insanity Law, §§ 110-153.		

INSTITUTIONS FOR WOMEN — Concluded

Name of institution	Location	Administrative head	Laws relating to institution	Territory from which institution receives commitments	Persons received on commitment
<i>County Penitentiaries</i> (Same as for men).....	.....	.....	Penal Law, § 2187.		
<i>County Jails</i> (Same as for men).....	.....	.....	Penal Law, § 2187.		
<i>New York City Institutions</i> City prison. (Otherwise same institutions as for men except that no women are committed to the Reformatory of Misdemeanants.)	125 Sixth Ave.				
<i>Private Institutions</i> (See directory of State Board of Charities.)					

SECTION 5

PAROLE OFFICIALS

INSTITUTIONS FOR CHILDREN

STATE AGRICULTURAL AND INDUSTRIAL SCHOOL, Industry: Inmates are paroled by managers. Charles E. Ewing has charge of the placing out and supervision of all Protestant boys. Don C. Manning has charge of the placing out and supervision of all Catholic boys.

First Parole District: Dr. Algernon S. Crapsey, Field Officer, 57 Eagle St., Albany, N. Y., has the supervision of the paroled boys in the following counties: Albany, Columbia, Dutchess, Essex, Fulton, Genesee, Hamilton, Kings, Montgomery, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, Washington, Westchester.

Second Parole District: Lewis H. Mott, Field Officer, 1423 Cortland Ave., Syracuse, N. Y., has the supervision of the paroled boys in the following counties: Broome, Chemung, Chenango, Cortland, Delaware, Franklin, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Otsego, St. Lawrence, Schuyler, Tioga, Tompkins.

Third Parole District: Agents Manning and Ewing as Field Officers have supervision of the paroled boys in the following counties: Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne and Yates.

Fourth Parole District: Charles H. Goff, Field Officer, 121 Franklin St., Buffalo, N. Y., has the supervision of the paroled boys in the following counties: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans and Wyoming.

HOUSE OF REFUGE, A REFORMATORY FOR BOYS, Randall's Island, New York city; Inmates are paroled by managers. Parole officers: Frederick C. Helbing, William C. O'Keefe, Xavier Bongiorno, Norman E. Dall, Thomas F. MacNulty and Charles K. Koch. Address Box 15, Station L, New York City.

STATE TRAINING SCHOOL FOR GIRLS, HUDSON: Inmates paroled by managers. Parole officers: Lenna J. Craddock, Cicely M. Hannon, and Frances A. DeNyse, Hudson. Marshal, Sarah E. Henry, Hudson.

INSTITUTIONS FOR ADULTS.

AUBURN PRISON AND WOMEN'S PRISON, Auburn: Inmates are paroled by State Board of Parole.* Parole officer: Thomas Fowler, territory — the State.

CLINTON PRISON, Dannemora: Inmates are paroled by State Board of Parole.* Parole officer: Edgar C. Farrington, Dannemora; territory — the State.

SING SING PRISON, Ossining: Inmates are paroled by State Board of Parole.* Parole officer: Martin Gallagher; territory — the State.

STATE REFORMATORY FOR MEN, Elmira, and EASTERN STATE REFORMATORY FOR MEN, Napanoch: Inmates are paroled by board of managers of reformatories. Parole officers: Chief parole agent, H. B. Rodgers, 135 East Fifteenth Street, New York city; Assistant parole agents, A. G. Benedict, Aaron L. Budd, 135 East Fifteenth Street, New York city; Martin McDonough, 165 Swan Street, Buffalo.

HOUSE OF REFUGE FOR WOMEN, Albion: Inmates are paroled by board of managers. Parole officer: Capitola Grinnell, Albion; territory — the State, except first, second and third districts.

REFORMATORY FOR WOMEN, Bedford: Inmates are paroled by board of managers. Parole officers: Miss S. A. Ellison, Bedford; Miss Bella L. Murphy, Bedford.

PAROLE COMMISSION OF THE CITY OF NEW YORK, Municipal Bldg.: Paroles inmates of New York City Reformatory of Misdemeanants, Penitentiary and Workhouses; Katherine Bement Davis, Chairman; Bertram deN. Cruger, Alexander McKinny, R. Minnick, Secretary; Chief parole officer: James J. Flynn; Parole officers; Andrew R. Bliss, William R. Hogan, John E. Capless, Frederick S. Roberts, Francis J. A. Brennen, Samuel Ribakove.

* See Section 6, State Department.

SECTION 6

DIRECTORY OF CERTAIN STATE DEPARTMENTS

STATE BOARD OF CHARITIES: Secretary, Charles H. Johnson, The Capitol, Albany.

Inspects all State, county and municipal institutions of a charitable or eleemosynary character; State training schools and reformatories for children; reformatories for women; and the State farms for vagrants.

STATE CIVIL SERVICE COMMISSION: Secretary, John C. Birdsall, The Capitol, Albany; Chief Examiner, Harold N. Saxton. Conducts civil service examinations for positions in the classified service of the State and counties; supervises and approves appointments of municipal civil service commissions.

STATE DEPARTMENT OF EDUCATION: Commissioner, John H. Burrows, The Capitol, Albany; Chief of Division of Compulsory Education, James D. Sullivan.

STATE DEPARTMENT OF HEALTH: Commissioner, Dr. Hermann H. Hays, The Capitol, Albany.

STATE HOSPITAL COMMISSION: Secretary, E. S. Elwood, The Capitol, Albany.

Supervises institutions for the care and treatment of the insane.

SUPERINTENDENT OF STATE PRISONS: James M. Carter, The Capitol, Albany.

Has general supervision of the management and discipline of State prisons and the State Farm for Women; maintains a bureau of identification and finger-print records of prisoners in State prisons.

STATE BOARD OF PAROLE: Members, The Superintendent of Prisons, The Capitol, Albany; Henry J. McCann, Albany, and William Townsend, Utica.

Acts on applications of prisoners in State prisons for release on parole; examines and reports to the Governor, with recommendations, concerning applications for pardon referred to it by the Governor.

STATE COMMISSION OF PRISONS: Secretary, John F. Tremain, The Capitol, Albany.

Inspects and exercises general supervision over prisons, reformatories, penitentiaries, jails, workhouses, city prisons, and the State Farm for Women, to which sane adults, charged with or convicted of offenses, are committed; also inspects police stations and lockups.

STATE PROBATION COMMISSION: Secretary, Charles L. Chute, 58 North Pearl Street, Albany.

SECTION 7

LITERATURE PUBLISHED BY THE STATE PROBATION COMMISSION

(Arranged in chronological order.)

Annual Reports

First report of the State Probation Commission for the six months ending December 31, 1907. (217 pages, 1908.)

Second annual report of the State Probation Commission for the year ending December 31, 1908. (150 pages, 1909.)

Third annual report of the State Probation Commission for the year ending December 31, 1909. (216 pages, 1910.)

Fourth annual report of the State Probation Commission for the year ending December 31, 1910. (270 pages, 1911.)

Fifth annual report of the State Probation Commission for the year ending December 31, 1911. (426 pages, 1912.)

Sixth annual report of the State Probation Commission for the year ending September 30, 1912. (384 pages, 1913.)

Seventh annual report of the State Probation Commission for the year ending September 30, 1913. (425 pages, 1914.)

Eighth annual report of the State Probation Commission for the year ending September 30, 1914. (505 pages, 1915.)

Manual for Probation Officers in New York State. (258 pages, 1913.)

Addresses, Leaflets and Pamphlets

A study of Probation in Yonkers. (43 pages, 1907. Reprinted in First Report.)

Recommendations for a Chief Probation Officer in the Juvenile Court of Rochester. (10 pages, 1908. Reprinted in Second Report.)

Out of print.

Catechism of Probation, by Dr. Charles F. McKenna. (8 pages. Adopted as a publication by the Commission in 1908.)

Out of print.

Forms for Juvenile and Adult Probation with Suggestions as to their Use. (27 pages, 1908.)

Superseded.

Illustrative Cases of Probation. Taken from the Annual Report of the State Probation Commission for 1908. (4 pages, 1909.)

Out of print.

Advantages of Probation. (16 pages, 1909. Latest revised edition, 1916.)

County Probation Officers. (12 pages, 1909. Latest revised edition, December, 1912.)

Probation or Jail. (4 pages, 1909. Latest revised edition, 1916.)

What Probation Does; the Story of John. (4 pages, 1909.)

The Prosecution of Parents for the Delinquencies of Their Children. Address by Frank E. Wade at the Thirty-sixth National Conference of Charities and Correction at Buffalo, June 14, 1909. (12 pages, 1909.)

Probation. Address by Edwin Mulready at the Third State Conference of Probation Officers at Albany, November 16, 1909. (8 pages, 1910.)

The Possible Co-ordination of the Correctional Institutions of the State of New York. Address by Dr. O. F. Lewis at the Tenth New York State Conference of Charities and Correction at Albany, November 18, 1909. (17 pages, 1909)

Proceedings of the First Conference of City Magistrates at Albany, December 10 and 11, 1909. (75 pages, 1910. Reprinted in Third Annual Report.)

Recommendations of the State Probation Commission to the Judges of the Court of General Sessions of New York County. (10 pages, 1910. Reprinted in Fourth Annual Report.)

Recommendations of the State Probation Commission concerning a Juvenile Detention Home and a Woman Probation Officer in Syracuse. (11 pages, 1911. Reprinted in Fifth Annual Report.)

Civil Service Examinations for Probation Officers. Address by Arthur W. Towne at the Third Conference of the National Probation Association at Boston, June, 1911. (16 pages, 1911.)

The Treatment of Delinquents Before and After the Institution. Address by Arthur W. Towne, at the Twelfth New York State Conference of Charities and Correction at Watertown, October 19, 1911. (6 pages, 1911.)

Out of print.

Treatment of Young Misdemeanants. Address by Frank [unclear], at the Third Conference of the New York State Association of Magistrates at Albany, December 8, 1911. (8 pages, Reprinted in the 1912 reports of the Prison Commission and the Prison Association.)

Probation Rules of the City Court of Buffalo. (29 pages, 1911. Reprinted in Fifth Annual Report.)

Probation Rules of the Children's Court of Buffalo. (17 pages, Reprinted in Fifth Annual Report.)

Probation in Cases of Children. Address by Justice Morgan Ryan at the Fourth Conference of the New York State Association of Magistrates at Syracuse, December 6, 1912. (7 pages, 1912. Reprinted in Sixth Annual Report.)

Probation Results in Syracuse. Extracts from a Report by the [unclear]. (7 pages, 1912.)

Physical Basis for Irritability in Boys — The Beginning of Juvenile Delinquency. By Dr. John Adams Colliver. (10 pages, 1913.)

Probation and Parole in New York State. Address by [unclear] Wade at the Fortieth National Conference of Charities and Corrections at Seattle, July 10, 1913. (10 pages, 1914. Reprinted in Sixth Annual Report, 1916.)

Probation. Address by Arthur W. Towne at the Conference of the American Humane Association, Rochester, October 1, 1914. (7 pages, 1914.)

Probation and Children's Court Problems. Address by Justice Benjamin J. [unclear] at the Sixth Conference of the New York State Association of Magistrates at Albany, January 20, 1915. (8 pages, 1915.)

Probation; Its Place in the Treatment of Crime. Address by Gov. Charles S. Whitman at the Eighth State Conference of Probation Officers at Albany, November 15, 1915. (10 pages, 1915.)

Probation. Address submitted by the New York State Probation Commission to the Supreme Court of the United States regarding the Suspension of Sentence and the Use of Probation in the United States Courts. (10 pages, 1915.)

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STATE OF NEW YORK

Annual Report

OF THE

State Racing Commission

TRANSMITTED TO THE LEGISLATURE APRIL 6, 1916

**ALBANY
J. B. LYON COMPANY, PRINTERS
1916**

STATE OF NEW YORK

No. 45

IN SENATE

APRIL 6, 1916

Report of New York State Racing Commission for 1915

To the Legislature of the State of New York:

Pursuant to the requirement of section 285 of the Membership Corporations Law, the State Racing Commission hereby makes report of its proceedings for the year ending December 1, 1915.

Applications for licenses to conduct running-race and steeplechase meetings, under the sanction of the Jockey Club and the National Steeplechase and Hunt Association, were received by the Commission during the year from Westchester Racing Association, Queens County Jockey Club, Empire City Jockey Club, Metropolitan Jockey Club, Saratoga Racing Association, Piping Rock Racing Association, United Hunts Racing Association and Meadowbrook Steeplechase Association. Licenses were granted by

the Commission to the several applicants; and thoroughbred racing was conducted under such licenses in the year 1915 as follows:

At the Belmont Park Track.....	30 days
At the Aqueduct Track.....	15 days
By the Empire City Association.....	16 days
At the Jamaica Track.....	14 days
At the Saratoga Track.....	24 days
At the Piping Rock Course.....	4 days
By the United Hunts Association.....	4 days
By the Meadowbrook Association.....	1 day

Racing was had during the year under our licenses on 108 days, as against 100 days in the year 1914.

The meeting of the Empire City Jockey Club was transferred to, and held at, the Belmont Park and Aqueduct tracks. The Metropolitan Jockey Club had not held a meeting during the year 1914.

The moneys distributed in stakes and purses at these race meetings in 1915 amounted to upward of the sum of \$535,000. The regular racing season for flat racing closed on September 14th.

No amendments to the Racing Law were passed during the year 1915.

No complaints were filed with the Commission in respect of violations of the Penal Law relating to gambling and pool-selling. During the Spring meeting of the Westchester Racing Association an inquiry was conducted by the District Attorney of Nassau county before a justice of the Supreme Court, sitting as a magistrate, as to whether or not gambling and bookmaking were being carried on upon the grounds, and if so, whether these things had been done with the knowledge or consent of the officers of the Association; but no finding sustaining such charge was made. Various arrests were made during both the Spring and Autumn meetings of the Westchester Racing Association, upon charges of bookmaking; but we have no record of any convictions having been had in any of the cases during the period covered by this report. An opinion which was rendered by the County Judge of Nassau county, dismissing certain indictments in those cases, is hereto annexed.

The Jockey Club has continued to maintain the Breeding

Bureau heretofore established by it whereby thoroughbred stallions are placed at various places throughout the State for stud service. Three hundred and forty-eight (348) mares were bred to these stallions during the year 1915, and there were reported two hundred and eighty-seven (287) foals during the year. Upwards of 6,500 mares have been bred to these stallions since the Bureau was established. A list of these stallions with the names and addresses of their keepers is hereto annexed.

The statute provides that this Commission shall annually make to the Legislature, in its report, such suggestions and recommendations as it shall deem desirable. Pursuant thereto we respectfully recommend to the Legislature that it should make an appropriation of moneys, up to a reasonable amount, to be expended in the purchase of thoroughbred stallions, to be stationed at various places throughout the agricultural districts of the State, for public service at a fee sufficient to pay for their maintenance. It is matter of common knowledge that many foreign governments have established breeding stud-farms for the purpose of producing and developing the valuable type which results from the breeding of thoroughbred stallions to approved mares of ordinary breeding. The benefits which have resulted from these breeding farms have been so substantial that the matter can no longer be considered an experiment. The foreign demand for cavalry horses has been so abnormal during the past year that our supply has been seriously reduced; and it seems peculiarly desirable and important at this time that the State of New York should come forward and encourage the breeding of fine horses — horses suitable for saddle, cavalry or light harness service, and horses of early maturity. We submit that the wisdom of such an appropriation will compare favorably with many of the appropriations which the Legislature is accustomed to make annually for the purpose of promoting agricultural pursuits throughout the State.

Dated December 1, 1915.

Respectfully submitted,

JAMES W. WADSWORTH,

Chairman.

JOHN SANFORD,

H. K. KNAPP,

Commissioners.

**Breeding Bureau Thoroughbred Stallions Standing for Sale
in the State at the Close of the Season of 1915**

ACCOUNTANT; G. L. Stryker, Derby, Erie Co.

ARABO; Carl Wendland, Springville, Erie Co.

BARLEYTHORPE; Dell Ware, So. Hanibal, Oswego Co.

BUSHEY TOP; J. Bartlett Hydorn, Troop B, 1st Cavalry, Albany,
N. Y.

CAPTAIN SWANSON; Guido F. Verbeck, Capt. 1st Field Artillery,
Syracuse.

DON DE ORO; James K. Frayling, Locust Valley, N. Y.

EASTON; Wm. R. Race, Olmstedville, Essex Co.

FASHION PLATE; G. L. Stryker, Derby, Erie Co.

FAULCONBRIDGE; B. R. & O. A. Knapp, Cortland, Cortland Co.

FAUNTLEROY; James K. Frayling, Locust Valley, N. Y.

HERMITAGE; Moynihan & Anderson, Glens Falls, Warren Co.

JUBILEE; W. S. Gardner, Mt. Morris, N. Y.

LADSAEION; H. M. Prime, Keeseville, Essex Co.

MERRY TASK; Mrs. Herbert Wadsworth, Avon, Livingston Co.

OTIS; Mrs. Herbert Wadsworth, Avon.

RED EYE; Geoffrey Tower, Waterville, Oneida Co.

SAINTS DAY; Eli Beary, Montour Falls, Schuyler Co.

SALADIN; H. W. Terpenney, Kirkville, Onondaga Co.

SHOT GUN; W. A. Wadsworth, Geneseo, Livingston Co.

WATERCOLOR; Capt. E. R. Seymour, Binghamton, Broome Co.

WONDER BOY; Mrs. Herbert Wadsworth, Avon.

NASSAU COUNTY COURT

PEOPLE

v.

JANDORF and another.

Decision
dismissing
indictments.

NIEMANN, J. The motion to dismiss the first count in the
indictment which charges the crime of bookmaking, is bas

the ground that the evidence in this case as here adduced does not show that these defendants were engaged in such a transaction as constitutes bookmaking.

Before the enactment of chapter 498 of the Laws of 1910, it was necessary to have written evidences of the transaction in order to constitute bookmaking, but by the passage by the Legislature of chapter 498 of the Laws of 1910, bookmaking was prohibited, "whether with or without writing," from which it follows that the Legislature must have had in mind that there could be bookmaking by means of oral transactions. But, both as to written and oral bookmaking, in order to constitute the offense, there must be such a transaction as will constitute the crime of bookmaking as it has been defined by Mr. Justice Haight in the case of *People ex rel. Lichtenstein v. Langan*, 196 N. Y., p. 260, at p. 264. The definition given by Judge Haight in that case as to what constitutes bookmaking has not been changed by the Court of Appeals in any case that has been called to my attention. Now then, what does Judge Haight state to be the scheme called bookmaking? He writes as follows (p. 265):

"The ordinary bookmaker is a person who follows the races and becomes fully informed with reference to the skill, speed and endurance of the horses that are entered for races. These horses are taken from one meeting to another of the various racing associations, and thereby the bookmakers are enabled to prepare a list of the horses entered for a race, with the odds so arranged as to percentages as to give them a profit whichever the winning horse may be. These schedules are written out and either posted or circulated by the clerks or agents of the bookmaker among the persons in attendance upon the races and their bets solicited, and when a customer is found he is given a check indicating the horse and amount upon which he has placed his money. This was the scheme under which the bookmakers were enabled to induce men, women and persons of immature years to part with their money, thus enabling the bookmakers to reap great profits out of the public and to become the chief supports of the races. This is evil which the Legislature sought to prevent by the enactment of the Hart-Agnew bill, chapters 506 and 507 of the Laws of 1908."

Now the evidence in this case shows that John Thompson, a constable, was asked by the defendant, Jandorf, "What do you want?" To which Thompson replied that he wanted to make a bet, thereupon Jandorf handed him a slip of paper and told him to write the name of the horse on it. Thompson asked Jandorf the odds, what the odds were and Jandorf quoted the odds to him at $2\frac{1}{2}$ to 1. Jandorf then told Thompson to write the name of the horse and the odds on the slip of paper and his initials, which Thompson did, and handed back the slip and two dollars to the defendant Jandorf, who handed the slip and money to the defendant Pyott. A like transaction in substantially the same form took place between Thompson and the defendants later in the day, and also a like transaction took place between them the next day, the 27th.

Mr. Thompson and also the witness, Mr. Karsboon, testified that they saw slips passed by the defendant Jandorf, on both days, to a number of people. Mr. Thompson puts the number at as high as fifty slips. The question now is whether what those defendants did on those days was bookmaking. I am of the opinion that, tested by the definition of bookmaking given by Judge Haight, the proof does not make out the crime charged. The scheme sought to be prohibited by the enactment of the law was the endeavor of bookmakers to induce men and women and persons of immature years to part with their money and to solicit bets from them; in other words, there must be affirmative action on the part of the bookmaker or the person who is charged with bookmaking, showing that he solicits and induces persons to engage with him, because, as Judge Haight says, this was the scheme under which bookmakers were enabled to induce men and women and persons of immature years to part with their money, thereby enabling the bookmakers to reap great profit, etc.

Now, from this evidence, we find that these men, who were willing to make bets, were approached by witnesses of the prosecution, and they were asked what they wanted, and they stated they wanted to bet, and thereupon these defendants bet with them. There is not a word of evidence that these defendants solicited them or induced them or even asked them, or requested them to engage in a bet with these defendants, and the transaction, it

seems to me, is nothing more than an engagement between individuals that resulted in their making of a wager upon a horse race, which, of itself, is not illegal, because this statute is aimed at the offense of bookmaking as defined in said decision.

I will now take up the second and third counts of the indictment, charging these defendants with the crime of recording and registering bets and wagers upon the result of trials and contests of skill, speed and power of endurance of horses. It was decided in the case of *People v. Lambrix*, 204 N. Y., 261, at page 264, that the mere receipt of the memorandum by the defendant did not constitute this offense. In the course of the opinion in that case Judge Cullen said, however, "To bring the case within the statute it was not necessary that the defendant personally should make the record or registry of the wager. If it was made by any persons in his employ or on his behalf or by his direction, that would be sufficient to charge him."

It is sought to hold these defendants upon that part of the evidence in this case in which it is shown that these defendants handed slips to the witnesses and told them to put on them the name of the horse, the price and their initials, in other words it is claimed that the defendants constituted the complaining witnesses in this case, with whom they had the transactions, their agents, and that they were acting in the matter through them, but it would seem to me an undue extension of the theory of agency, especially as applied to a criminal case, to hold that these men were acting for and on behalf of these defendants.

The complaining witnesses were acting for themselves; they wanted to make a bet; they said they wanted to make a bet and thereupon these defendants handed them slips of paper and told them to make these memorandums. Now in order to make the bet it was necessary for these witnesses to write these memorandums evidently, and if they had not done so they could not have made the bet; so to accomplish their purpose they willingly of their own accord and for their own purposes made a memorandum and handed it to the defendant. There was no evidence in this case that these defendants had clerks or assistants or persons whom they had specially employed for the purpose of acting for

them in making memorandums, or even that they engaged a body to take memorandums, without gain, voluntarily, for them.

I am of the opinion, therefore, that the second and third counts of the indictment have not been sustained by such evidence as would justify the submission of this case to the jury; therefore the Court advises the jury in this case to acquit the defendants of the charges made against them in the first, second and third counts of this indictment.

STATE OF NEW YORK

No. 46

IN SENATE

APRIL 15, 1916

REPORT OF THE SPECIAL COMMITTEE ON APPORTIONMENT

To the Legislature:

The Committee on Apportionment respectfully makes the following report and explanation of the Apportionment bill which it presents:

In undertaking the Apportionment of Senate districts the first question arising was the number of such districts pursuant to Section 4, Article 3 of the Constitution which provides:

“the senate shall always be composed of fifty members except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to fifty senators, and the whole number of senators shall be increased to that extent.”

Under the Apportionment made by the Constitutional Convention in 1894, Kings county had seven senators.

Under the Apportionment in 1907, based upon the enumeration of 1905, Kings county was entitled to eight senators, while the

other counties having more than three senators showed no increase. Kings county was given an additional senator and the whole number of senators was increased to fifty-one.

The enumeration for 1915 showed 8,059,515 citizen population, giving a ratio of 161,190. Under this Kings county is entitled to eight senators with a remainder of 151,701, only 10,000 short of another full ratio. There is no change in the representation of New York, Bronx or Erie, the only other counties having three or more senators.

In 1905 the eighth senator in Kings county was an "additional" senator, but it has been contended, as there was no increase in that county on the present Apportionment over the Apportionment of 1905, that the eighth senator ceased to be an "additional" senator.

The provision for an increase in the number of senators was intended to protect the rural counties.

Under the present apportionment the counties of Westchester and Queens must each have two senators when they only had one each and those two senators, gained by the urban counties, must be taken away from the forty-eight rural counties which had nineteen senators under the apportionment of 1905 and can have but seventeen of the fifty-one senators under the present apportionment and only sixteen if the total number be reduced to fifty. These forty-eight counties contain an area of 41,286 square miles out of 50,326 square miles in the entire State.

If the apportionment of 1925 increases the number of senators by seven and maintains the rural districts intact by increasing the total number to fifty-seven, the reduction to fifty senators in 1935 would reduce the number of senators representing the forty-eight rural counties to nine. The Constitutional Convention in 1894 had no such intent. It is submitted that the safeguard provided against such a contingency was permanent and not for a ten year period.

It is further urged that a construction which permanently increases the number of senators with the increase of the urban population makes for equality of representation and serves to protect the city of New York as well as the country.

In 1865 Monroe county and what is now Greater New York had a population of 1,279,189 including aliens as compared

with 3,808,735 for the whole State, or 33 per cent. In 1875 the same cities had 1,867,149 as compared with 4,698,958 for the whole State of 39 per cent. In 1892 the population of these urban counties had increased to 51 per cent of the whole State, in 1905 it was 56 per cent and in 1915, 60 per cent.

The debates of the Constitutional Convention and particularly the remarks of Mr. Bush, found at Volume 4 of the Proceedings of the Convention, page 648, indicate that the framers of the Constitution had these considerations in view when they provided for an increase in the number of senators, and that they intended the increase to be permanent and not merely for ten year periods.

The Committee, therefore, concluded that the apportionment of senatorial districts should be based upon fifty-one senators.

A problem was also presented by Section 5 of Article 3 of the Constitution which regulates the method of apportioning members of Assembly to the several counties.

The section seems to provide in plain language for four distinct steps as follows:

First. One member of Assembly to every county having less than a ratio and one-half over.

Second. Two members to every other county.

Third. All remaining members on a new ratio to counties having more than two ratios.

Fourth. Remaining members to be apportioned to these counties upon remainders in numerical order.

There could scarcely be room for difference of opinion as to the rules laid down were it not for the fact that the Constitutional Convention which prescribed these rules for future apportionment adopted a method slightly different in computing the apportionment of members of the Assembly.

The paragraph to be construed as originally reported by the Committee on Legislative Apportionment (August 27th. Volume 3, page 343, Proceedings of Constitutional Convention), read as follows:

“The quotient, from dividing the total population excluding aliens, by the number of members of Assembly, shall be the ratio for apportionment; which shall be made as follows:

“First. One member of Assembly shall be apportioned

to every county (including Fulton and Hamilton), containing less than the ratio and one-half over.

“Second. Two members shall be apportioned to every county (including Fulton and Hamilton), containing such ratio and one-half over, but less than twice said ratio and one-half over.

“Third. The total population excluding aliens, of the remaining counties of the State shall be divided by the number of remaining members of the Assembly, and the quotient shall be the ratio for the Apportionment of said remaining members.

“Members apportioned on less than the ratio shall go to the counties having the highest remainder, in the order thereof, respectively.

“No county shall, in any case, have more members of the Assembly than a county having a greater population.”

The method prescribed as above varies only slightly from the method as finally adopted, so slightly that the practical difference in 1894 would have been to give New York county thirty-four members instead of thirty-five and Monroe county five members instead of four. The computation was made upon the rules just stated, and was submitted to the people separately from the rest of the Constitution and without change.

But on September 11, 1894, less than three weeks before adjournment, an amendment was introduced which changed the language to read as at present (Proceedings of Convention, Volume 4, page 368).

By chapter 431 of the Laws of 1906, the Legislature made an apportionment based upon the enumeration of 1905, and followed the plain meaning of the language of the section as amended and not the method prescribed by the language of the section as it stood when the apportionment was made by the Constitutional Convention.

Where the language is as plain as it is here, there is no room for construction — for statutes which are plain and explicit cannot be qualified.

Hyatt v. Taylor, 42 N. Y. 258.

Johnson v. H. R. R. R. Co., 49 N. Y., 455.

Under the method adopted in 1906 Monroe received five members and New York county thirty-five members. If the method prescribed prior to the final amendment and followed by the Constitutional Convention had been adopted, New York county would have had thirty-six members, and Monroe county four members, the only difference being in the apportionment on the remainders and the only actual variation in the number of assemblymen allotted to the several counties being respectively in New York and Monroe.

This apportionment was set aside by the Court of Appeals in *Sherrill v. O'Brien*, 188 N. Y., 185, after a prolonged contest in which every objection to the apportionment was raised that the ingenuity of counsel could devise, but nowhere in any of the briefs either in the Appellate Division or before the Court of Appeals was the suggestion made that in allotting the assemblymen to New York and Monroe counties the Legislature had not correctly construed the meaning and intent of Section 5, Article III of the Constitution.

The apportionment having been set aside, the Legislature of 1907 made another apportionment, which said apportionment is that now in force. Under this apportionment, New York county was given thirty-five members, and Monroe county five members. Had the method of computation employed by the Constitutional Convention, under the former reading of the paragraph, been adopted, New York county would have been entitled to thirty-six members and Monroe county to four members. But chapter 727 of the Laws of 1907 fixed the number of representatives upon the basis of the plan as set forth in the Constitution subsequent to amendment.

Under the enumeration of 1915, the plan of apportionment followed by the Constitutional Convention would give New York county twenty-four members, Kings county twenty-four members, Oneida county two members, and Westchester county four members. Under the language of the Constitution, as altered by the final amendment, Kings county is entitled to twenty-three members, New York county to twenty-three members, Oneida to three members and Westchester to six members. As to all the other counties, the result is precisely the same under either method.

Under all these circumstances this Committee concluded that there were two practical constructions of the paragraph in question by chapter 431, Laws of 1906, and 727, Laws of 1907, which have been acquiesced in for a long period of years. A legislative construction so acquiesced in is almost conclusive upon the courts.

People ex rel. Wogan v. Rafferty, 154 App. Div. 767, 774.

People ex rel. Williams v. Dayton, 55 N. Y. 367, 378.

Cooley on Constitutional Limitations, 7th ed., p. 73.

Storey on the Constitution, section 408.

It cannot therefore be said that there was any constitutional construction of the above paragraph by the apportionment made pursuant to the language employed prior to the amendment of September thirteenth.

The Committee has, therefore, apportioned assemblymen to the several counties on the following basis:

To counties having less than a ratio and half.....	39
Two members to each of the twenty-two other counties...	44
	<hr/>
Total	83
	<hr/>
Remaining to be apportioned.....	67
	<hr/> <hr/>

Excess population over two ratios of counties entitled to distribution 4,260,976.

This divided by 67 gives a new ratio of 63,596.

The result is as follows: Albany, none; remainder 61,330; Bronx, six; remainder 3,598; Erie, six; remainder 17,447; Kings, 20; remainder 61,841; Monroe, 2; remainder 45,223; New York, 21; remainder 19,308; Oneida, none; remainder 37,316; Onondaga, 1; remainder 23,414; Queens, 3; remainder 46,845; Westchester, 2; remainder 38,417.

Six assemblymen are apportioned on remainders to Albany, Monroe, Kings, Queens, Westchester and Oneida.

Upon the computation the number of assemblymen to which
each county is entitled works out as set forth in the proposed act.

Respectfully submitted,

CHARLES W. WICKS,
CHARLES W. WALTON,
GEORGE A. SLATER,
CLINTON T. HORTON,
MORRIS S. HALLIDAY,
ARDEN L. NORTON.

STATE OF NEW YORK

FTH ANNUAL REPORT

OF THE

ARD OF CLAIMS

OF THE

STATE OF NEW YORK

TRANSMITTED TO THE LEGISLATURE APRIL 12, 1916

**ALBANY
J. B. LYON COMPANY, PRINTERS
1916**

STATE OF NEW YORK

No. 47

IN SENATE

APRIL 12, 1916.

Fifth Annual Report of the Board of Claims of the State of New York

ALBANY, N. Y., April 12, 1916

HON. EDWARD SCHOENECK, *President of the Senate:*

DEAR SIR.—I have the honor to transmit herewith to you for the Legislature of the State of New York the fifth annual report of the Board of Claims of the State of New York, covering the period from January 1, 1915, to May 27, 1915.

Very respectfully yours,

FREDERICK D. COLSON,
*Acting Clerk of the Board of Claims from
April 15, 1915, to May 27, 1915.*

REPORT

To the Legislature of the State of New York:

In accordance with the requirements of section 271 of the Code of Civil Procedure, the Board of Claims submits its Fifth Annual Report.

The Board of Claims, established by chapter 856 of the Laws of 1911, was abolished by chapter 1 of the Laws of 1915. Section 1 of this Act amended section 263 of the Code of Civil Procedure to read, in part, as follows:

“The office of commissioner of claims is hereby abolished, but the commissioners now in office shall continue to have the powers and duties of commissioners of claims until the appointment and qualification of judges of the court of claims, except that after this section as amended takes effect and until the appointment and qualification of judges of the court of claims they shall not hear, try or determine any claim, or entertain a motion or make an order affecting the substantial rights of a party. During the period of three months after the first appointment and qualification of judges hereunder, such commissioners shall have power to determine and dispose of questions, claims and matters which shall have been finally submitted to and heard by such board on or before January twenty-third, nineteen hundred and fifteen, in the same manner and with the same effect as if such board had not been abolished.”

Subject to the limitations imposed by the above provision of the Code of Civil Procedure, the Board of Claims disposed of the following claims during the period from January 1, 1915, to May 27, 1915, inclusive:

No.	Name of Claimant	Amount claimed	Amount of award
1593a	American Pipe & Construction Co.....	\$31,744 44	\$31,744 44
1380a	Atlantic, Gulf & Pacific Co.....	7,352 64	3,501 06
1392a	Atlantic, Gulf & Pacific Co.....	1,842 53	1,780 66
1394a	Atlantic, Gulf & Pacific Co.....	2,429 60	2,429 60
2071a	Auspelmeyer, Christian	3,951 95	2,112 04
1292a	Bailey, James	4,650 00	1,700 00
1041a	Banks, Phebe Wells..	1,000 00	
1011a	Green, Harriet Banks } Consolidated.... }	1,500 00	1,697 68
769a	Barrett, William G., and another.....	5,000 00	1,900 00
340a	Bradley, Maude S., Adm., etc.....	25,264 80	10,000 00
319a	Boyd, Ida M., Adm., etc.....	25,000 00	7,000 00
401a	Derby, Augustin	610 00	610 00
5404	Dermott, Henry S., Exec., etc.....	60,000 00	6,000 00
1534a	Duel, Alice C.	1,215 00	400 00
329a	Dooley, Charles A.	5,185 71	1,800 00
1958a	Dwyer, Sarah	200 00	100 00
9265	Fellows, Byron F.	1,500 00	1,025 00
1304a	Gaffey, Daniel J.	60 65	60 65
1166a	Gausline, William H., adm., etc.....	25,000 00	4,000 00
1143a	Halpin, Michael C., Adm., etc.....	20,000 00	6,000 00
9970	{ Hart, Adniram, Consolidated..... }	5,400 00	
782a		5,400 00	4,165 50
379a	The Holington Co.	9,364 00	5,689 27
1142a	Hood, Emma L.	2,500 00	2,000 00
1449a	Hudson & Manhattan R. R. Co.....	2,545 42	2,545 42
698a	{ Hutchinson, Samuel, Consolidated... }	1,125 00	
1102a		1,000 00	875 00
955a	Jackson & Perkins Co.	48,745 50	38,085 92
547a	Journal Co., The	1,608 30	1,608 30
9973	Kennedy, William T.	920 00	300 00
50a	LeValley, John	1,500 00	650 00
500a	LeValley, John	4,500 00	2,100 00
1457a	Litts, Owen D.	191 51	Dismissed.
2093a	Marshall, John M., and another.....	4,927 00	4,434 30
583a	*Middleton, Nathaniel	2,900 00	1,000 00
1165a	Miner, William	5,000 00	1,500 00
1867a	Myers, John C., and another.....	10,000 00	4,754 00
1868a	Myers, John C., and another.....	25,000 00	5,533 20
1869a	Myers, John C., and another.....	6,000 00	3,042 00
1870a	Myers, John C., and another.....	63,406 00	25,362 40
311a	Myers, Josiah	10,200 00	800 00

* Judgment vacated by order of Court of Claims, dated June 14, 1915, on stipulation of attorney and Attorney-General.

No.	Name of Claimant	Amount claimed	Amount of award
702a	Orleans County Quarry Co.....	314,404 00	
1108a		130,000 00	76,327 57
1111a		124,680 00	
367a	Palmer, James K.	6,458 67	6,458 67
331a	Payne, Anna H., adm., etc.....	25,000 00	7,500 00
2058a	Pepper, Louis C., et al.....	4,807 75	4,646 20
8322	Remington, Harvey F.	1,600 00	Dismissed.
335a	Robinson, James	1,000 00	200 00
336a	Robinson, Mary E.	3,000 00	900 00
103a	Ryan, Bridget, adm., etc.....	20,000 00	6,000 00
2061a	Schermerhorn, Andrew T.	8,769 50	8,617 45
2062a	Schermerhorn, Clarence, and another.....	14,802 00	11,869 40
330a	Sharkey, William P.	15,500 00	1,000 00
9215	St. Deininger, Anne E., et al.....	12,000 00	11,892 80
10011	Syracuse, Lakeshore & Northern R. R. Co..	3,000 00	3,000 00
1573a	Van Antwerp, Bishop & Co.....	857 80	524 30
767a	Verrette, Joseph A., guard, etc.....	18,000 00	18,000 00
2063a	Van Wormer, Fred, et al.....	2,690 50	1,942 59
10796	Watervliet Hydraulic Co.....	500,000 00	153,713 83
1027a	White, Cyrus B.	1,917 50	Dismissed.
1888a	Zeiser, Mary Helena Eleanor.....	8,000 00	3,795 20

In the foregoing 62 claims disposed of by the

Board the total amount claimed is the sum of \$1,673,227.77

The total amount of awards made therein, ex-

clusive of interest, is the sum of..... 504,694 45

Report of Hon. Irving G. Vann, official referee, in the following claim adopted by the Board:

No.	Name of Claimant	Amount claimed	Amount of award
10684	Lyons National Bank et al.....	\$47,000 00	\$21,500 00

The undersigned was acting clerk of the Board of Claims from April 15, 1915, to May 27, 1915, when the commissioners of the Board of Claims (pursuant to section 263 of the Code of Civil

Procedure, as amended by chapter 1 of the Laws of 1915) went out of office, and makes this report in that capacity.

Very respectfully yours,

FREDERICK D. COLSON,

*Acting Clerk of the Board of Claims from
April 15, 1915, to May 27, 1915.*

STATE OF NEW YORK

Fifteenth Annual Report

OF THE

COURT OF CLAIMS

OF THE

STATE OF NEW YORK

TRANSMITTED TO THE LEGISLATURE APRIL 12, 1916

ALBANY
J. B. LYON COMPANY, PRINTERS
1916

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JUDGES AND OFFICERS OF THE COURT OF CLAIMS IN 1915.

ADOLPH J. RODENBECK, Presiding Judge, Rochester, N. Y.
FRED M. ACKERSON, Judge, Niagara Falls, N. Y.
THOMAS F. FENNELL, Judge, Elmira, N. Y.
CHARLES R. PARIS,¹ Judge, Hudson Falls, N. Y.
NATHANIEL P. WILLIS,² Judge, Cooperstown, N. Y.
WILLIAM D. CUNNINGHAM,³ Judge, Ellenville, N. Y.
JOHN V. SHERIDAN,⁴ Clerk, New York City, N. Y.
FREDERICK D. COLSON,⁵ Clerk, Albany, N. Y.

Deputy Clerks also acting as Court Stenographers.

HENRY C. LAMMERT, Brooklyn, N. Y.
WILLIAM R. FOLEY, Brooklyn, N. Y.
RUPERT O. BURROWS, Rochester, N. Y.

¹Appointed on April 19, 1915, by the Governor as an additional judge pursuant to section 282 of the Code of Civil Procedure as added by chapter 1 of the Laws of 1915.

²Appointed on April 19, 1915, by the Governor as an additional judge. Resigned on May 4, 1915.

³Appointed on December 29, 1915, by the Governor as an additional judge to fill the unexpired term of Judge Willis.

⁴Clerk of the former Board of Claims acting as clerk of the Court of Claims pursuant to section 266 of the Code of Civil Procedure as amended by chapter 1 of the Laws of 1915.

⁵Appointed clerk of the Court of Claims on March 22, 1915, to take effect on April 15, 1915.

STATE OF NEW YORK

No. 48

IN SENATE

April 12, 1916

Fifteenth Annual Report of the Court of Claims of the State of New York

COURT OF CLAIMS

CLERK'S OFFICE, ALBANY, April 12, 1916

Hon. EDWARD SCHOENECK, *President of the Senate:*

DEAR SIR.—I have the honor to transmit herewith to you for the Legislature of the State of New York the fifteenth annual report of the Court of Claims of the State of New York, as required by law.

Very respectfully yours,

FREDERICK D. COLSON,

Clerk.

REPORT

of the Legislature of the State of New York:

in accordance with the requirements of section 271 of the Code of Civil Procedure, the Court of Claims submits its fifteenth annual report.*

The Court of Claims having been re-established by chapter 1 of the Laws of 1915, it seems appropriate at this time to state briefly the previous history of the Court.

The State being sovereign is not amenable to private claims except on the part of its citizens except with its consent as provided by some statute. The purpose of the statutes enacted in this State with respect to the hearing of claims against the State has been to provide some body, board or court, vested with jurisdiction to pass upon such claims.

In the early history of the State, when the claims began to multiply out of the construction of the original canal system of the State, the auditing officers, so far as that task was not performed by the Legislature itself, were known as canal appraisers and it was their function to pass upon the amount that should be allowed to persons from whom land had been taken for the construction or maintenance of the canal or who had otherwise been damaged by the improvement.

The Legislature meanwhile was passing upon private claims directly by means of appropriations, but this practice became so unsatisfactory that the Constitution was amended in 1874 so as to prohibit the Legislature from auditing or allowing any private claim or account against the State. (Article 3, § 19.)

This prohibition made it necessary for the Legislature to provide some other means for auditing private claims and for that

While this report is the first annual report to be submitted by the Court of Claims as re-established by chapter 1 of the Laws of 1915, it is, taking into consideration the entire history of the court from its first establishment by chapter 36 of the Laws of 1897, the fifteenth report to be made by the court designated as the Court of Claims, and to avoid the confusion that would result from having two reports of the Court of Claims bear the same number, it has been thought wise to continue the numbering from the reports of the previous court.

purpose it created the Board of Audit, consisting of the Comptroller, Secretary of State and State Treasurer, who were authorized to hear all private claims and accounts against the State, except such as were then heard by the canal appraisers. (Laws of 1876, chapter 442; *Quayle v. State*, 192 N. Y. 47.)

This board, consisting of State officers, continued to audit claims and accounts against the State to be paid out of appropriations made by the Legislature until 1883 when both the canal appraisers and the State Board of Audit were abolished and the Board of Claims was created in their stead with jurisdiction to hear, audit and determine all private claims against the State, except such as were required by law to be audited by other State officers. (Laws of 1883, chapter 205.)

This Board continued until 1897, when there was created in its place a Court of Claims with a simple procedure and with somewhat enlarged jurisdiction. (Laws of 1897, chapter 36.)

In 1911 the Court of Claims as a "court" was abolished and the Board of Claims was revived with substantially the same powers and jurisdiction as the Court of Claims. (Laws of 1911, chapter 856; *Peo. ex rel. Swift v. Luce*, 204 N. Y. 478.)

The Board of Claims in its turn was abolished in 1915 and the Court of Claims revived. (Laws of 1915, chapters 1 and 100.)

In re-establishing the Court of Claims in 1915, the Legislature made three important changes in the pre-existing system.

1. Only one of the three commissioners constituting the Board of Claims was required to be "an attorney and counselor-at-law of at least ten years' experience in practice," whereas every judge of the Court of Claims must be "an attorney and counselor-at-law admitted to practice in the courts of this State, of at least ten years' experience in practice."

2. While the court is made up regularly of three judges, provision was made for additional judges as follows:

"The number of judges to constitute the Court of Claims may be increased to not more than five as provided by this section. If the Attorney-General shall at any time certify to the Governor in writing that the accumulation of business in the Court of Claims requires for the disposal thereof an additional judge or judges, specifying the number, not more

than two, the Governor may appoint, by and with the advice and consent of the Senate, such additional judge or judges, each of whom shall be an attorney and counselor-at-law, admitted to practice in the courts of this State of at least ten years' experience in practice. The terms of any such additional judge shall expire January first, nineteen hundred and eighteen." (Code of Civil Procedure, § 282.)

3. The most important change effected by the new legislation was, however, the result of the following addition to section 268 of the Code of Civil Procedure:

"A session of the Court may be conducted and testimony and proof taken and arguments heard thereat, by one or more judges to be designated by the presiding judge; but no determination or judgment of the Court shall be rendered except upon the concurrence of at least two of the judges of the Court. Not more than three judges shall sit in any case."

In other words, prior to 1915, there was no statutory authority permitting the Board or Court of Claims to sit in parts. Under the above provision, however, one, two or three judges may hold a session of the Court. Further reference to this provision will be made later on in this report.

The new Court of Claims was brought into existence by the appointment by Governor Charles S. Whitman on February 10, 1915, of Adolph J. Rodenbeck for the term ending December 31, 1923; of Fred M. Ackerson for the term ending December 31, 1920; and of Thomas F. Fennell for the term ending December 31, 1917. Adolph J. Rodenbeck, a member of the former Court of Claims, was designated presiding judge.

On April 19, 1915, Governor Whitman appointed the two following additional judges under the authority of section 282 of the Code of Civil Procedure above referred to: Charles R. Paris and Nathaniel P. Willis for the terms ending January 1, 1918. Judge Willis resigned on May 4, 1915, and on December 29, 1915, Governor Whitman appointed William D. Cunningham to fill Judge Willis' unexpired term.

On March 3, 1916, Judge Adolph J. Rodenbeck resigned by reason of his appointment as a Supreme Court Justice in the

seventh judicial district and on March 6, 1916, Governor Whitman appointed William W. Webb to fill Judge Rodenbeck's unexpired term.

Judge Fred M. Ackerson was designated by the Governor on March 6, 1916, as presiding judge.

The Court began its first term at Utica on March 22, 1915. From that date to March 21, 1916 (the first year of the new Court's existence) the Court held almost continuous trial terms for forty-five weeks and spent four additional weeks in joint consultations deciding cases, a total of forty-nine weeks. The Court has taken full advantage of the statutory authority to sit in parts. During considerable of the time since the beginning of the Syracuse term on April 26, 1915, it sat in three parts, and at times sat in four parts. For about ten months of the past year (from March 22, 1915, to March 21, 1916), the Court consisted of only four judges. With the full complement of five judges it is probable that the Court will sit almost continuously while in session in at least three parts.

The Court has made a radical change in calendar practice, the wisdom of which has been amply demonstrated. Under the old rules, with the exception of those claims which on application of the Attorney-General the Court added to the calendar, only those claims were placed on the calendar which were properly noticed for trial by the claimants. The change is two-fold. First, the Court has divided the State into five districts, namely, the Albany, Utica, Syracuse, Rochester and Buffalo districts, and has assigned to each district those counties which by reason of the convenience of the claimants as well as the State should be grouped together. Secondly, commencing with the Syracuse term on November 8, 1915, the Court has on its own initiative placed on the calendar for each district all the claims pending in that district. The Attorney-General has, despite the considerably added burden it has placed on that office, energetically co-operated by regularly noticing for trial all the claims so placed on the calendar for each district.

The result has been that perhaps for the first time in the history of the State (certainly in recent years) not only the Court but also the other State departments concerned in the adjustment or defense

of claims against the State (namely, the Attorney-General, Superintendent of Public Works, State Engineer and Surveyor, and at times other departments) have been able to determine very definitely just what the situation is that the State has to meet with respect to the claims pending against it.

The new practice permits the obtaining of a report on all pending claims. It brings the claimants and the State into Court, and has already accomplished much in the way of expediting the trial or settlement of meritorious claims, and of putting the Attorney General in a position either (1) to move for the dismissal of those claims which because of laches on the part of the claimants or for other reasons ought not to be tried, or (2) to force to trial those claimants who through delay in the trial of their claims seek to profit at the expense of the State through the accumulation of interest charges or otherwise.

Furthermore, the new practice has already done much (and will continue to do more) in the way of correcting and perfecting the State records relating to claims against the State and of systematizing the work of the Court and of the various State departments concerned in the trial or adjustment of claims.

The following tables give the claims disposed of during the first year's work of the new court, namely, from March 22, 1915, to March 21, 1916, inclusive. It will be noticed however that the claims disposed of in 1915 are separately listed. These tables are followed by (1) a list of the awards filed with the court in 1915 by retired judges of the Court of Appeals acting as official referees under chapter 229 of the Laws of 1911, and (2) a statement of the judgments entered by the Court of Claims in 1915 pursuant to the direction of the Appellate Division of the Supreme Court, Third Department, and the Court of Appeals.

The following are the claims disposed of by the Court from March 22, 1915, to December 31, 1915, inclusive:

No.	Name of Claimant	Amount claimed	Amount of award
575-A	Abbe, George H., & ano.	\$4,952 00	\$2,000 00
576-A	Abbe, George H.	900 00	Dismissed
8669	Adam, Bertram F.	500 00	Dismissed
2961	Allen, Arch	297 50	Dismissed

No.	Name of Claimant	Amount claimed	A
2481-A	Allen, John G., & ano..	\$4,647 58	\$2,
661-A	American Telephone & Telegraph Co.	750 00	Di
2625-A	Amoruso, Giovanni, & ano.	200 00	
9967	Anderegg, Emil G.	2,625 00	Di
10326	Ankiewer, Frances	9,459 50	Di
2963	Archer, Willard	148 75	Di
2960	Arthur, Dwight	297 50	Di
10755	Artlip, Mavor W., & ano.	1,000 00	Di
1248-A	Auburn Savings Bank..	4,000 00	2
10544	Austin, James H.	750 00	
2966	Babcock, E. H.	42 50	Di
2177-A	Bailey, William H., & ano.	3,800 00	2
1604-A	Baker, Joseph W.	584 50	
1605-A	Baker, Joseph W.	766 15	
10064	Baldwinsville Light & Heat Co.	1,632 84	
744-A	Balmforth, Arthur, et al.	2,342 60	
745-A	Balmforth, Arthur, et al.	3,220 00	1
802-A	Balmforth, William H. & ano.	2,500 00	1
1222-A	Bargy, Mary E.	160 00	
711-A	Barnum, Fred H., & ano.	544 50	
2601-A	Barnum, Fred H., & ano.	504 50	
2447-A	Barrally, Thomas W., & ano.	2,864 08	1
2421-A	Barrett, Frances L., & ano.	5,000 00	3
2965	Barry, Andrew	297 50	Di
9760	Barry, John, & ano....	1,084 45	
8671	Barry, Stella H.	350 00	Di
9270	Bartrum, Adeline	1,027 25	
2037-A	Battams, John	2,650 00	
10541	Battrino, Vincenzo	600 00	Di
1314-A	Baxter, William E.	2,000 00	

	Name of Claimant	Amount claimed	Amount of award
	Beasley, Thomas	\$297 50	Dismissed
-A	Beck, Sarah	4,000 00	\$1,901 50
-A	Beck, Sarah	5,000 00	2,300 00
-A	Beck, Sarah	1,000 00	300 00
	Becker, Harry L.	232 00	Dismissed
	Bedell, Helen C., exec., &c.	992 50	617 50
-A -A -A	Bedell, Helen C., exec., &c.	24,290 15	8,979 20
-A	Bedell, Helen C., exec., &c.	3,384 05	1,353 93
-A	Bedell, Helen C., exec., &c.	12,808 25	4,460 68
3	Behling, Henry	2,000 00	Dismissed
0-A	Bellinger, Margaret	1,384 75	Dismissed
9-A	Belli, Diodato, & ano. . .	904 50	200 00
4-A	Benedict, Adrian L., & ano.	550 00	250 00
3-A	Benedict, Harland E., & ano.	1,050 00	663 90
0	Betts, Cornelia D.	630 00	200 00
7-A	Betters, Joseph E.	3,200 00	600 00
4-A	Bianchi, Philip, & ano. .	3,000 00	1,500 00
7	Bice, Robert S.	6,833 30	Dismissed
8-A	Bird, William S.	144 75	120 00
7-A	Bishop, Demming B., & ano.	1,500 00	300 00
3-A	Blaisdell, Lee, by guard.	2,000 00	Dismissed
4-A	Blaisdell, Lillian	500 00	Dismissed
4	Bliss, Jacob H., as adm., &c.	72 50	50 00
9-A	Blount, Seymour	2,984 00	Dismissed
8-A	Bonsted, Emma H.	883 65	236 00
2-A	Borner, George, & ano. .	700 00	250 00
0-A	Bousefield, John C., & ano.	3,501 50	Dismissed

No.	Name of Claimant	Amount claimed	An
1634-A	Bouvier, John V.....	\$124 00	\$
761-A	Bovard, Eleanor E.....	1,500 00	Dis
10411	Bradley, Frank M., & ano.	400 00	
2645-A	Bradley, Frank M., & ano.	150 00	
2646-A	Bradley, Frank M., & ano.	100 00	
9957	Brooks, Calvin, & ano., &c.	500 00	
8152	Brophy, John	500 00	
7887	Brown, George D.	1,950 00	Dis
820-A	Brushnahan, John	1,000 00	Dis
1624-A	Buchockowski, John . . .	3,040 00	
10809	Burger, Lewis	13,860 00	Dis
2101-A	Burger, William H., &c.	2,595 56	2,5
8666	Burgess, Dean	150 00	Dis
1994-A	Burhyte, George A.	100 00	Dis
650-A	Burnett, Flora A., as adm., &c.	306 30	
1760-A	Burt, Abbie L., & ano. . .	500 00	
9849	Burton, John	300 00	Dis
768-A	Butler, John M.	125 00	
2363-A	Butler, John M., & ano.	1,756 00	1,0
10298	Butler, Morgan	302 00	
8880	Button, Chauncey M. . . .	1,325 00	Dis
2967	Byres, Frederick	148 75	Dis
1856-A	Cahill, John H.	275 00	Dis
506-A	Campbell, Josephino . . .	1,082 80	
8158	Canino, Angelio	200 00	
707-A	Carlton, Joseph	900 00	
1679-A	Carney, Hugh, et al. . . .	2,000 00	Dis
612-A	Carruthers, Frank W. . . .	20,000 00	8,3
2206-A	Carter, Charles H., & ano.	7,000 00	2,9
2207-A	Carter, Charles H., & ano.	3,500 00	2,1

No.	Name of Claimant	Amount claimed	Amount of award
2659-A	Carter, Frank, & ano..	\$13,500 00	\$6,000 00
1879-A	Casaretti, Nicholas	3,300 00	1,498 00
9582	Case, Archibald	970 00	Dismissed
1905-A	Casler, P. W. Co., Inc..	25,000 00	Dismissed
8153	Castle, John H.	300 00	25 00
1822-A	Cattoo, Jacob	700 00..	Dismissed
10712	Cavana, Martin	91 30	Dismissed
1308-A	Cave, Amanda M.	4,835 90	1,687 95
8156	Cerio, James	200 00	40 00
982-A	Chambers, George, & ano	4,000 00	738 34
10454	Chapman, Fred H.	214 00	40 00
9228	Chauncey, Cora B.	2,032 40	1,200 00
9487	Christy, Addie	1,500 00	664 00
360-A	Ciszek, Olimpia	895 00	Dismissed
8-A	Claesgens, Anna	1,000 00	Dismissed
2970	Clancy, Michael	297 50	Dismissed
8150	Clark, Ida M.	1,000 00	80 00
9052	Clay, Edward	150 00	Dismissed
2971	Clemens, Isaac	265 60	Dismissed
8374	Clements, James A.	365 00	Dismissed
10759	Clifford, John R., & ano	7,500 00	700 00
2461-A	Cloke, Catherine	3,000 00	75 00
1344-A	Close, Fred R., et al. . . .	1,006 00	600 00
2392-A	Cohen, Frank L.	8,683 50	6,000 00
1237-A	Colburn, Wallace E., & ano.	1,000 00	500 00
3030	Cole, Henry	148 75	Dismissed
9881	Condon, Eliza	21 00	21 00
746-A	Connelly, James P.	4,985 00	Dismissed
1582-A	Conover, Isaac	5,260 60	Dismissed
10901	Cook, Emmett L.	542 46	Dismissed
862-A	Cornell, Byron E.	1,200 00	Dismissed
10670	Cornell, Willis	300 00	160 00
1036-A	Crear, David	43,890 00	Dismissed
1037-A	Crear, David	775 80	Dismissed
1038-A	Crear, David	2,925 00	Dismissed
1039-A	Crear, David	38,121 00	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
9492	Creedon, John M., & ano.	\$1,000 00	\$377 00
8161	Crim, Perry	200 00	Dismissed
1423-A	Crossett, Arthur W., & ano.	3,000 00	125 00
981-A	Curry, John C.	5,000 00	1,666 84
403-A	Curtin, James J.	600 00	250 00
2023-A	Curtis, Seymour H.	12,946 00	Dismissed
936-A	Dagenkolb, John	1,800 00	550 00
9132	Daley, Patrick B., & ano.	21,314 55	5,221 20
9267	Dashman, Joseph, & ano.	962 25	75 00
1208-A	Dauchy, Oscar W.	400 00	300 00
2975	Davin, Charles	297 50	Dismissed
2973	Davin, S. M.	297 50	Dismissed
1235-A	Deady, Elizabeth, et al. .	550 00	Dismissed
2699-A	Deady, Elizabeth, et al. .	550 00	325 00
9762	Dean, Mary A.	3,782 01	Dismissed
1779-A	DeCoppet & Co.	1,051 53	954 02
1991-A	DeCoppet & Doremus. .	9,293 52	9,263 42
8163	DeLamater, Nelson	2,000 00	Dismissed
2532-A	Delaware & Hudson Co., The	112,934 34	Dismissed
1454-A } 2222-A }	Delevan, Candace	971 20	553 00
2974	Dengler, George F.	148 75	Dismissed
10088	Derrick, George	1,529 50	Dismissed
10834	Devendorf, Cornelius V.	254 50	Dismissed
1993-A	Devendorf, Cornelius V.	1,250 00	Dismissed
9965	Dinman, Gilbert	1,000 00	Dismissed
10668	Dixon, Frank E.	150 00	72 00
8111	Dixon, J. Fayette, & ano.	2,000 00	Dismissed
106-A	Domenico, Frank	200 00	30 00
800-A	Domenico, Frank	200 00	30 00
2114-A	Donnelly, Mary	60 00	30 00
9969	Dow, Hezekiah F.	1,000 00	250 00
2722-A	Drake, Theodore A.	135 00	60 00
2034-A	Dudeck, Henry	1,000 00	400 00
10300	Dumars, Asher, & ano. .	164 00	25 00

No.	Name of Claimant	Amount claimed	Amount of award
2681-A	Dunbar, Elizabeth O..	\$200 00	\$50 00
2682-A	Dunbar, John T.....	1,494 92	750 00
10299	Dunbar, John T.....	182 00	Dismissed
3758	Dunham, Daniel C.....	456 00	Dismissed
2148-A	Dunning, Mary A., & ano.	2,445 00	400 00
3757	Dygert, Amanda, & ano.	557 00	Dismissed
2676-A	Eisinger, George	201 40	50 00
9820	Elmore, Sarah	162 60	110 00
10489	Empire Sand Co.....	143,514 30	26,114 28
1434-A	Empire United Rail- ways, Inc.	510 00	500 00
1463-A	Empire United Rail- ways, Inc.	85 00	75 00
1464-A	Empire United Rail- ways, Inc.	135 00	125 00
1505-A	Empire United Rail- ways, Inc.	265 00	235 00
10850	Evans, M. Nellie, et al..	14,450 60	11,500 00
2979	Evans, J. A., & ano....	182 80	Dismissed
2982	Evans, J. A., assignee..	199 00	Dismissed
2980	Evans, James A., as- signee	164 88	Dismissed
2981	Evans, James A., as- signee	180 22	Dismissed
2983	Evans, James A., as- signee	193 40	Dismissed
2984	Evans, James A., as- signee	175 25	Dismissed
2985	Evans, James A., as- signee	199 00	Dismissed
2070-A	Everett, Cora A.....	1,000 00	Dismissed
2976	Eyshman, Alonzo	297 50	Dismissed
2978	Eysman, Frank	148 75	Dismissed
2977	Eysman, Luther	297 50	Dismissed
7045	Farrell, Owen	500 25	Dismissed
1608-A	Faulds, James B.....	5,529 40	2,643 37

No.	Name of Claimant	Amount claimed	Amount of award
1610-A	Faulds, James B.....	\$4,057 85	\$2,452 37
8829	Faulds, William	275 00	Dismissed
2183-A	Feehan, Herbert J., and wife	3,000 00	1,500 00
10794	Fehrenz, Mary E.....	1,500 00	Dismissed
2208-A	Ferraro, Sebate, and wife & ano.....	2,500 00	1,600 00
728-A	Finch, William T.....	1,425 00	100 00
553-A	First National Bank of Rome	3,600 00	Dismissed
554-A	First National Bank of Rome	2,572 20	Dismissed
555-A	First National Bank of Rome	2,450 00	Dismissed
938-A	Fisher, Charles	8,000 00	3,000 00
1311-A	Fisher, Christina, et al..	2,901 10	525 27
1310-A	Fisher, Frank J.....	12,297 77	4,005 88
2187-A	Fisher, Fred C., & ano..	2,000 00	1,000 00
2188-A	Fisher, Fred C., & ano..	3,500 00	1,950 00
2189-A	Fisher, Fred C., & ano..	10,000 00	6,900 00
2660-A	Fisher, George M.....	7,500 00	2,000 00
2988	Fisher, Malvin	297 50	Dismissed
10034	Fitzgerald, Emma H...	6,690 00	Dismissed
2986	Fitzgerald, John, Jr....	297 50	Dismissed
1678-A	Floyd-Jones, & ano.....	2,272 70	2,030 00
2990	Foley, Reuben	297 50	Dismissed
2989	Foltz, C. P.....	148 75	Dismissed
2987	Fox, Alexander	297 50	Dismissed
8670	Freeman, Anna Davis..	600 00	Dismissed
1653-A	French, Wilbey J., & ano	735 00	Dismissed
2190-A	Fullmer, Mary D.....	200 00	40 00
1359-A	Ganier, Charles	515 00	150 00
2203-A	Ganier, Charles	240 00	100 00
483-A	Garlock, Gertrude Bidle- man	1,527 50	Dismissed
2238-A	Gilbert, Charles W., ind., &c.	2,500 00	1,900 00

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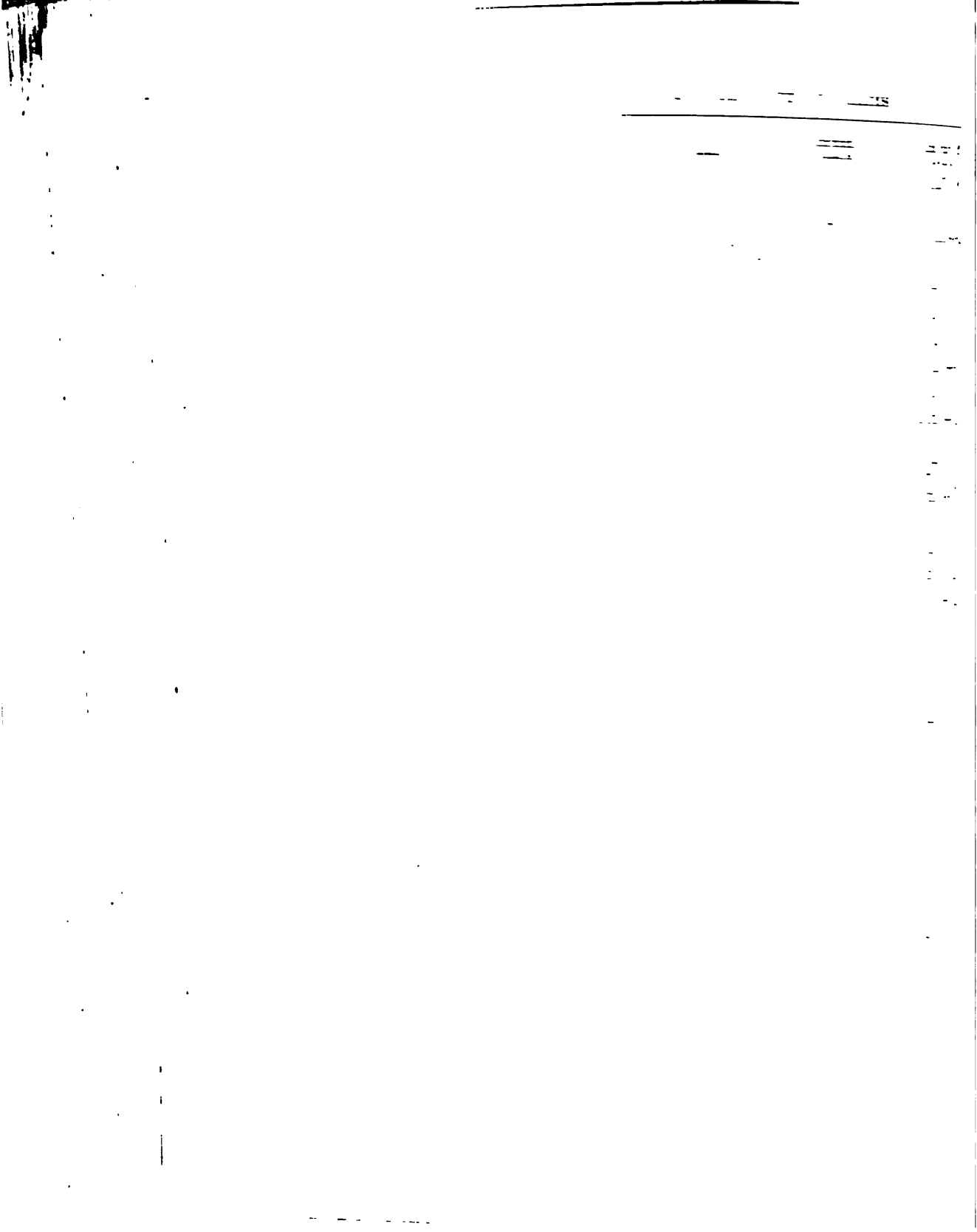
	Name of Claimant	Amount claimed	
8	Goldsmith, Kate L., & ano.	\$31,265 17	\$
1	Goodbread, Jerome	148 75	
2-A	Gotts, Harriet E., et al. .	200 00	
2	Grace, Edward A.	150 00	
2-A	Grace, Edward A.	150 00	
3-A	Grace, Edward A.	200 00	
6-A	Graves, Henrietta L., & ano.	4,163 80	
4-A	Grecco, Vito	600 00	
5	Green, Adelbert	2,844 00	
2-A	Green, Adelbert	2,342 00	
8-A	Green, Adelbert	3,710 00	
9	Greene, Adelbert C.	670 00	
7-A	Greiner, Carrie B.	4,000 00	
2-A	Grievson, Bridget	925 00	
2	Griffin, Fred	87 50	
6-A	Griffin, James	8,956 30	
9	Griffin, William	318 00	
1-A	Gross, William F.	1,200 00	
6	Hafels, Jacob	85 00	
6-A	Hahn, Elizabeth, et al. .	300 00	
4	Halfmoon Bridge Co. . . .	72,053 50	
6-A	Hall, Arthur C.	80 00	
6-A	Hammond, Charles F., & ano.	800 00	
8	Hanley, Barney	300 00	
5	Harding, Catherine	1,572 24	
2-A	Harper, Joseph	3,688 00	
6	Harrigan, Maggie	208 00	
9	Harrington, Almon	170 00	
6	Harrington, Almon, as committee	150 00	
1-A	Harvey, John, ind., &c. .	100 00	
3	Hastings, Thomas	148 75	
2	Hawthorne, Nathaniel . .	130 00	
6-A	Hebbard, William B. . . .	700 00	

No.	Name of Claimant	Amount claimed	Amount awarded
2994	Hennessey, John	\$297 50	Dismissed
2596-A	Hennessey, William, et al.	200 00	200 00
2504-A	Hess, Forest L.	465 60	75 00
2832-A	Hess & Hess.	238 00	238 00
10130	Hicks, John W.	6,000 00	Dismissed
1252-A	Hillgartner, Frederick C.	544 22	225 00
2995	Hilliger, Douglas	148 75	Dismissed
912-A	Homuth, Charles M.	271 00	50 00
1638-A	Honigman Brothers	322 00	274 00
2997	Hooter, Aaron A.	262 50	Dismissed
1203-A	Hopkins, Josephine Day	1,126 00	400 00
136-A	Horn, John, Jr.	6,000 00	Dismissed
1225-A	Horton, Smith G.	480 00.	325 00
2574-A	Hosmer, Frederick D., & ano.	340 00	225 00
10446	Howard, Elizabeth	300 00	Dismissed
9209	Hoyt, Samuel N.	11,040 00	2,000 00
2110-A	Hoyt, Valerie	225 00	225 00
2579-A	Hudson Valley Ry Co., The	150,362 23	Dismissed
2996	Hulling, Augustus	297 50	Dismissed
2379-A	Hunt, George T., & ano.	2,600 00	100 00
2178-A	Hurd, Albert Z., & ano..	5,000 00	2,500 00
9042	Hurlburt, Edward	50 00	25 00
9041	Hurlbut, Frank	400 00	Dismissed
9328	Hurley, John	546 65	235 00
2263-A	Illston, Etta M.	250 00	200 00
9860	Jackson, John J.	25,000 00	13,853 00
1100-A	Jackson, W. Herbert.	150 00	100 00
1771-A	Jacquelin, John H., & Co.	403 16	403 16
10230	Johns, Edward, as adm.	125 00	100 00
2998	Johnson, M.	289 35	Dismissed
8208	Jones, Adelbert N.	940 00	Dismissed
9035	Jones, Anna F.	200 00	Dismissed
1995-A	Jones, David R.	2,100 00	650 00
1268-A	Jones, John R.	847 95	300 00
1291-A	Jones, Lewis E.	1,089 60	241 00

No.	Name of Claimant	Amount claimed	Amount of award
1466-A	Jordan, Lewis	\$2,180 00	\$1,500 00
1793-A	Kay, Clara E.....	2,577 05	Dismissed
10671	Kay, James, & ano.....	173 00	95 00
9090	Keefe, Mary J., exec., &c	303 30	Dismissed
8225	Keith, George	455 00	Dismissed
8752	Keith, George	515 00	Dismissed
2999	Keller, Jasper	297 50	Dismissed
3000	Keller, William	297 50	Dismissed
787-A	Kelly, Charles L., et al.	1,055 40	213 75
527-A	Kelly, Frank A., et al..	10,352 40	Dismissed
2695-A	Kelly, Sidney J., et al..	2,500 00	500 00
1427-A	Keno, Albert P.....	3,457 25	2,600 00
9335	Kenyon, Jacob C., & ano.	2,041 95	950 00
2390-A	Kerber, Frederick, & ano.	1,765 00	650 00
10336	Kerr, Adda D.....	5,000 00	Dismissed
2655-A	Kerr, Adda D.....	5,000 00	2,000 00
2673-A	Kessler, Charles	10,440 50	6,000 00
2111-A	King, Robert	40 00	15 00
2112-A	King, Sarah A.....	120 00	150 00
10317	King, Sidney T.....	220 00	25 00
1435-A } 2691-A }	Kinyon, Charles E.....	500 00	60 00
1668-A	Kirkner, J., & Co.....	1,343 00	1,343 00
2136-A	Kiser, Fred E.....	830 00	100 00
2359-A	Kline, Arthur J.....	1,500 00	1,000 00
9821	Klock, Herbert	97 20	Dismissed
112-A	Klossner, David	850 00	160 00
1362-A	Klossner, David	850 00	160 00
2205-A	Klossner, David	425 00	80 00
10319	Knauer, Barbara	1,245 00	Dismissed
2589-A	Kubatek, Joseph, & ano.	1,201 50	250 00
2665-A	Kuney, Elmer L., & ano.	800 00	200 00
1345-A	Kwiatkowski, Roselia, et al.	1,006 00	200 00
9360	Lager, Carl	627 95	150 00
122-A	Lager, Carl, et al.....	600 00	175 00
8162	Laird, William S.....	562 00	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
1249-A	Lamanna, Maria	\$1,500 00	\$75 00
2619-A	Lamay, George, & ano..	300 00	150 00
10308	Lamson, Francis A.	300 00	75 00
2186-A	Langdon, John E., & ano.	2,500 00	1,200 00
8686	Langstaff, Herbert H. . . .	400 00	Dismissed
8867	Langstaff, Herbert H. . . .	1,400 00	Dismissed
1265-A	Lannan, James	175 00	60 00
2079-A	Lannan, James	235 00	60 00
6929	Lanning, Irving	150 00	Dismissed
10479	Lansing, William F.	111 00	90 00
2198-A	Lawless, Anna E.	7,000 00	3,500 00
1864-A	Lawrence, Edward B. . . .	150 00	Dismissed
3003	Leach, William	177 08	Dismissed
9277	Lehigh Valley Railway Co.	15,000 00	8,000 00
2258-A	Leister, Catherine, et al.	1,516 80	1,000 00
816-A	Lepinske, William	1,500 00	125 00
3762	Lester, Elisha F.	362 00	Dismissed
2145-A	Lewisohn, Adolph	1,345 81	1,286 94
638-A	Limbeck, Stephen T.	4,888 00	600 00
2360-A	Loomis, Judson W., et al	1,526 65	275 00
2133-A	Lorback, John	60 00	30 00
10384	Luft, Eva A., as admx., &c.	17 50	17 50
2573-A	Luke, Rudolph, & ano..	6,193 58	1,900 00
774-A	Lunette, Antonio	500 00	Dismissed
128-A	Lyons Butter & Cheese Factory	5,000 00	Dismissed
2723-A	Mabb, Sabra Ann.	375 00	375 00
3005	Magar, Frank	148 75	Dismissed
3006	Magner, John	297 50	Dismissed
3010	Maguire, William	148 75	Dismissed
8813	Maltby, Merritt	50 00	Dismissed
8171	Maltby, Miner	700 00	Dismissed
2466-A	Marat, Zorah F. Ineson.	1,100 00	250 00
1915-A	Marciniack, Palagia	4,001 50	1,200 00
8830	Marks, J. Howard, as exec., &c.	450 00	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
2239-A	Marshall, Mary	\$2,200 00	\$225 00
1247-A	Marson, Edward M.	2,886 85	2,207 70
10851	Marson, Edward M.	14,960 45	7,911 40
10852	Marson, Edward M.	24,695 00	13,839 25
1246-A	Marson, Edward M.	489 72	372 50
1884-A	Martena, Jullus A.	13,293 92	703 00
9477	Mason, Albert B.	120 00	Dismissed
2702-A	Mathews, Edward, & ano.	850 00	125 00
830-A	Maycock, William H.	100 00	25 00
415-A	Maycock, William H.	120 00	50 00
1839-A	Maycock, William H.	100 00	25 00
8233	McBurney, James	500 00	Dismissed
1570-A	McCabe, Michael	3,260 00	150 00
2240-A	McCartney, John, & ano.	1,800 00	150 00
2182-A	McCarthy, Michael J.	3,700 00	1,700 00
3008	McGrath, Thomas	148 75	Dismissed
9879	McGrath, William H., et al.	1,176 00	Dismissed
9880	McGrath, William H., et al.	976 00	Dismissed
2210-A	Maguire, Bridget, et al.	10,000 00	5 902 00
980-A	McKee, Jeannette E.	2,500 00	738 33
2241-A	McKeon, John T.	14,500 00	7,600 00
822-A	McKinley, Hays D.	600 00	144 00
9220	McMichael, John	350 00	Dismissed
613-A	McNamara, Thomas C.	200 00	Dismissed
2046-A	Mead, Grant H.	3,427 00	931 00
8148	Menarbio, Antonio	500 00	40 00
8672	Miller, Irving G.	190 00	Dismissed
8198	Mills, Elmer	424 00	Dismissed
10885	Minot, Morton, et al.	700 00	Dismissed
10888	Minot, Morton, et al.	2,450 00	Dismissed
1716-A	Minzesheimer, G. M. & Co.	1,536 50	1,536 50
2135-A	Moir, Maude A.	200 00	175 00
1316-A	Moore, Sarah Beecher.	200 00	Dismissed
1318-A	Moore, Sarah Beecher.	300 00	Dismissed



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No.	Name of Claimant	Amount claimed	Amount of award
687-A	Nixon, Nellie L.....	\$375 00	
1952-A	Noble, Frank	3,000 00	\$100 00
9426	Noonan, Ann	1,466 19	2,000 00
1916-A	Norton, Charles, & ano..	4,012 50	Dismissed
1579-A	Noyes, J. M. & Co.....	619 00	3,400 00
1609-A	Nutt, Albert	6,541 00	619 00
1607-A	Nutt, Clarence J., & ano.	12,018 00	3,408 25
0463	Oberdorfer Brass Co., M. L.	1,376 19	5,508 75
2184-A	O'Brien, John H., & ano.	1,500 00	925 00
177	Ogilsbie, Agnes F., & ano.	1,220 00	1,150 00
113-A	Ohleh, Mary	73 00	Dismissed
300-A	Oswego Construction Co.	317,601 90	35 00
236-A	Owens, John S.....	1,128 40	62,812 46
32	Owsley, John Guy.....	382 25	600 00
13-A	Paddock, Fred N.....	280 00	Dismissed
61-A	Paddock, Fred N.....	280 00	50 00
04-A	Paddock, Fred N.....	140 00	50 00
3	Paine, Frederick B., ind., &c.	124 00	25 00
19-A	Palmer, Elmer H.....	200 00	25 00
8	Parish, Franklin P., & ano.	1,502 16	190 00
2-A	Parker, Fred B., & ano.	1,536 10	1,050 00
9	Parkhurst, John	452 50	575 00
1-A	Parry, Emma, exec., &c.	360 00	150 00
1-A	Parry, Emma	360 00	318 00
1-A	Parry, Watkyn W.....	33,299 25	191 63
1-A	Pease, Ellen S. & ano...	479 75	18,000 00
	Penn, Ernest B.....	400 00	75 00
	Penny, F. H.....	116 87	Dismissed
	Perkins, Albert E., et al.	400 00	Dismissed
	Perkins, D. A.....	180 62	Dismissed
A	Peters, P. Henry.....	400 00	Dismissed
	Petrie, Frank	297 50	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
10222	Morey, Albert J.....	\$200 00	\$125 00
1377-A	Morgan, Grace S. A., & ano.	2,750 00	Dismissed
10665	Morgan, Jennie Williams	600 00	210 00
2202-A	Morris, Alice M.....	4,000 00	2,400 00
9313	Morris, John, & ano....	1,790 00	250 00
1336-A	Morrison, Fred G.....	200 00	125 00
10807	Morrison, William	1,398 90	Dismissed
856-A	Morse, Newell	400 00	200 00
3004	Mosher, Fred	148 75	Dismissed
1422-A	Moss, John C.	1,100 00	100 00
2228-A	Mulhall, John M.	350 48	275 00
2229-A	Mulhall, John M.	110 00	Dismissed
1865-A	Murphy, Ellen	3,500 00	1,800 00
1337-A	Murray, Bert E.	5,000 00	Dismissed
1617-A	Musso, Alfred	25,687 99	Dismissed
3007	Myers, Lafayette	297 50	Dismissed
216-A	Naylor, Charles, & ano.	860 00	342 00
9190	Nelson, Lucy A.	2,502 94	1,100 00
3054	Newkirk, James	297 50	Dismissed
1053-A	New York Central & Hudson R. R. Co....	700 00	375 00
1120-A	New York Central & Hudson R. R. Co....	1,500 00	Dismissed
1446-A	New York Central & Hudson R. R. Co....	600 00	489 60
2009-A	New York Central & Hudson R. R. Co....	3,000 00	50 00
2303-A	New York Central Rail- road Co.	400 00	304 00
2304-A	New York Central Rail- road Co.	150 00	75 00
8667	Nichols, Indson C.	200 00	Dismissed
2597-A	Nichols, John	125 00	Dismissed
2180-A	Nichols, John F.	8,500 00	6,500 00
2185-A	Niles, Sylvia	2,600 00	1,700 00
4144	Nixon, Mary	160 00	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
687-A	Nixon, Nellie L.....	\$375 00	\$100 00
1952-A	Noble, Frank	3,000 00	2,000 00
9426	Noonan, Ann	1,466 19	Dismissed
1916-A	Norton, Charles, & ano..	4,012 50	3,400 00
1579-A	Noyes, J. M. & Co.....	619 00	619 00
1609-A	Nutt, Albert	6,541 00	3,408 25
1607-A	Nutt, Clarence J., & ano.	12,018 00	5,508 75
10463	Oberdorfer Brass Co., M. L.	1,376 19	925 00
2184-A	O'Brien, John H., & ano.	1,500 00	1,150 00
8177	Ogilsbie, Agnes F., & ano.	1,220 00	Dismissed
2113-A	Ohleh, Mary	73 00	35 00
2600-A	Oswego Construction Co.	317,601 90	62,812 46
2236-A	Owens, John S.....	1,128 40	600 00
8732	Owsley, John Guy.....	382 25	Dismissed
113-A	Paddock, Fred N.....	280 00	50 00
1361-A	Paddock, Fred N.....	280 00	50 00
2204-A	Paddock, Fred N.....	140 00	25 00
10313	Paine, Frederick B., ind., &c.	124 00	25 00
2069-A	Palmer, Elmer H.....	200 00	190 00
9538	Parish, Franklin P., & ano.	1,502 16	1,050 00
2572-A	Parker, Fred B., & ano.	1,536 10	575 00
9819	Parkhurst, John	452 50	150 00
840-A	Parry, Emma, exec., &c.	360 00	318 00
842-A	Parry, Emma	360 00	191 63
701-A } 951-A }	Parry, Watkyn W.....	33,299 25	18,000 00
625-A	Pease, Ellen S. & ano...	479 75	75 00
9847	Penn, Ernest B.....	400 00	Dismissed
3011	Penny, F. H.....	116 87	Dismissed
8739	Perkins, Albert E., et al.	400 00	Dismissed
3012	Perkins, D. A.....	180 62	Dismissed
1202-A	Peters, P. Henry.....	400 00	Dismissed
3013	Petrie, Frank	297 50	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
10770	Pickering, Frank E...	\$1,168 00	Dismissed
8828	Pierce, Harriett C....	215 00	Dismissed
1425-A	Pierson, Carlie B., & ano.	380 00	\$125 00
8149	Pittarelli, Michele	500 00	35 00
1101-A	Pittsford, Town of....	9,500 00	Dismissed
67-A	Pixley, Raymond J....	4,394 00	Dismissed
918-A	Popple, Roswell H....	5,500 00	1,324 86
949-A	Popple, Roswell H., & ano.	1,000 00	395 35
1298-A	Pouierco, Frank, & ano.	2,500 00	1,400 00
8220	Powell, Mary E.....	100 00	Dismissed
10771	Pratt, Anna T.....	16,641 60	4,500 00
3763	Pratt, Daphene E.....	310 00	Dismissed
8200	Pratt, Mary E.....	600 00	Dismissed
3014	Pullen, Charles	148 75	Dismissed
1426-A	Pulver, John, & ano....	345 00	100 00
398-A	Purcker, Caroline, & ano.	1,926 53	1,207 00
1123-A	Quinlan, Margaret, et al.	1,500 00	60 00
3015	Rankin, Daniel	148 75	Dismissed
1221-A	Rathbun, Fred G., & ano.	6,245 10	Dismissed
10690	Rathbun, James, & ano..	12,004 50	Dismissed
10256	Reef, Simon	3,700 00	Dismissed
2482-A	Reinhardt, Louis, & ano.	4,248 50	1,700 00
1317-A	Reising, George, et al...	450 00	175 00
9848	Reynolds, Delina	600 00	Dismissed
550-A	Reynolds, Edward	1,000 00	Dismissed
10697	Rice, Byron	404 50	125 00
408-A	Richards, Mary E....	4,900 00	2,400 00
1334-A	Rickard, Mary, et al....	500 00	Dismissed
2227-A	Riley, Bridget	250 00	50 00
8685	Rittredge, George W...	500 00	Dismissed
2357-A	Riverside Contracting Co	11,375 02	11,375 02
2680-A	Robbins, Alvin L., & ano.	175 50	150 00
1289-A	Roberts, David	1,201 50	Dismissed
3016	Roberts, Frank	116 87	Dismissed
8157	Robertson, R. D.....	200 00	40 00
8293	Rodenhiser, Herman ...	750 00	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
9205	Rodenheiser, Herman..	\$375 00	Dismissed
2179-A	Rogers, Thomas M.....	2,000 00	\$1,500 00
879-A	Roman, Henry, & ano...	7,489 80	1,087 96
1055-A	Rosenblatt, Helene	7,212 14	7,149 14
2300-A	Ross, George, & ano....	115 00	60 00
2192-A	Runge, Edward G., & ano.	2,500 00	1,500 00
786-A	Russ, Elizabeth	1,243 00	150 00
2181-A	Russo, Anna	1,600 00	1,200 00
1987-A	Ryan, Thomas	15,000 00	2,560 00
2612-A	Sanopli, Sam, & ano....	4,000 00	1,800 00
939-A	Santmire, Charles	4,000 00	925 20
2578-A	Scharping, Frank	655 00	250 00
8151	Scheid, John	370 00	30 00
2641-A	Schooler, Frank J., & ano.	404 20	Dismissed
8154	Schuyler, Henry	100 00	15 00
2193-A	Schuyler, Mary F., & ano.	3,500 00	1,600 00
3073	Schuyler, Raymond	297 50	Dismissed
3018	Seads, William, Jr.....	297 50	Dismissed
2534-A	Sebastian, Vincent, admr., &c.....	20,217 28	1,400 00
1379-A	Segovia Company	2,000 00	150 00
10133	Servoss, Isaac, et al....	1,500 00	Dismissed
10145	Sessions, Charles A....	17,838 10	2,760 00
1309-A	Seymour, Sylvester A..	328 80	275 00
742-A	Shanahan, Daniel J....	25,000 00	Dismissed
2703-A	Shapland, William H...	2,000 00	450 00
944-A	Sharp, Charles E.....	2,036 20	350 00
2286-A	Shauer, Frank, & ano...	500 00	40 00
3019	Shaver, George	148 75	Dismissed
2231-A	Shea, Rose E.....	1,517 40	1,000 00
2658-A	Sheppard, Harry, et al..	1,500 00	850 00
469-A	Sherman, Rachael M...	700 00	Dismissed
2199-A	Shirley, Stella	1,400 00	300 00
10304	Sickler, George E.....	274 00	70 00

No.	Name of Claimant	Amount claimed	Am a
823-A	Sitterly, LaRue	\$285 00	\$2
10787	Smith, Edwin P., & ano.	600 00	7
10790	Smith, Morris, et al.	1,500 00	
472-A	} Smith, Edwin B., & ano.	3,099 80	1,8
1125-A			
10499	Smith, George G.	4,250 00	2,3
9122	Smith, George W. L.	104 00	Dis
9133	Smith, George W. L.	156 56	Dis
1960-A	Smith, Melvin H.	2,500 00	2
763-A	Smith, William C., & ano.	15,110 30	Dis
1384-A	Smith, William, Jr.	2,519 84	Dis
2633-A	Smith, William C., & ano.	15,110 30	5,7
124-A	Sochia, Julius	200 00	
123-A	Socia, Alexander	200 00	
125-A	Socia, Richard	300 00	
10846	Solvay Process Co.	17,258 10	5,7
794-A	Spalding, Martha A.	335 00	3
115-A	Spear, Alexander, & ano.	4,572 50	Dis
10897	Spears, Celestia C.	5,100 00	Dis
10896	Spears, John R.	2,100 00	Dis
531-A	Spraker, James I.	7,000 00	Dis
1532-A	Standard Oil Co. of N.Y.	647 55	5
681-A	Stanton, Caroline	2,000 00	Dis
1576-A	Starin, Elizabeth E., & ano.	4,777 00	2,0
1488-A	Starin, Frank L., & ano.	4,873 60	2,0
1489-A	Starin, Frank L., & ano.	3,225 00	1,2
3020	Stauring, Franklin	297 50	Dis
3017	Stauring, John P.	297 50	Dis
10700	Steele, Ernest, & ano.	2,154 50	7
715-A	Stevens, Morris L.	4,024 00	1,2
8183	Stevens, Ralph	1,000 00	Dis
690-A	} Stevens, Stoddard M., et al.	7,156 00	2,9
2802-A			

No.	Name of Claimant	Amount claimed	Amount of award
8995	Stickney, William W., & ano.	\$2,984. 55	\$525 00
2706-A	Stone, George H.	800 00	100 00
1161-A	Strobel, Carrie E.	750 90	500 60
10310	Stuart, Wilson	300 00	15 00
8195	Suits, Eliza	690 00	Dismissed
2197-A	Sullivan, George, & ano.	15,000 00	7,400 00
10231	Sundstrom, Charles, & ano.	673,723 00	101,805 69
2200-A	Swaby, Frederick B., & ano.	3,005 05	737 12
10287	Swick, G. Herbert, as comm.	626 50	100 00
1276-A	Swick, G. Herbert, as comm.	200 00	75 00
1277-A	Swick, G. Herbert, as comm.	200 00	75 00
1531-A	Swick, G. Herbert, as comm.	200 00	75 00
8668	Syphert, Mary	350 00	Dismissed
3021	Tapling, George	255 00	Dismissed
10805	Teegel, Frederick	13,200 00	Dismissed
10495	Tempest, Harry	500 00	Dismissed
10303	Terpening, Samuel	144 00	15 00
2254-A	Thomas, Carrie J., & ano.	646 00	488 00
2315-A	Thomas, Carrie J., & ano.	726 50	270 00
2316-A	Thomas, Carrie J., & ano.	703 50	260 00
364-A	Thomas, Carrie J.	3,108 05	Dismissed
407-A	Thomas, Charles D.	3,000 00	Dismissed
1921-A	Thompson, Peter N.	6,000 00	Dismissed
1487-A	Thompson, Thomas N. . .	4,000 00	Dismissed
1091-A	Thorne, Alice Dunn. . . .	2,000 00	700 00
9271	Timon, George A.	1,027 25	75 00
9266	Timon, Phoebe	1,127 25	100 00

No.	Name of Claimant	Amount claimed	Amount of award
9672	Tonkin, John C., & ano.	\$2,070 00	\$600 00
10357	Topper, William	15,701 95	Dismissed
9943	Tremain, Elizabeth	500 00	Dismissed
10769	Utica & Black River R. R. Co.	566,856 82	Dismissed
10887	Utica & Mohawk Valley Ry. Co.	7,008 50	Dismissed
1341-A	Utica Steam Eng. & Boiler Wks.	2,500 00	1,085 00
2212-A	Van Cleef, William H., & ano.	1,500 00	351 96
785-A	Van Evera, Jay & ano..	836 39	342 00
1024-A	Vayette, Mary J.	501 50	173 16
1157-A	Vayette, Mary	2,056 00	2,056 00
2041-A	Veeder, Maria, et al. . . .	7,000 00	4,000 00
10667	Veeder, Mary J.	50 00	12 00
2224-A	Vickery, Thomas, & ano.	500 00	125 00
9225	Victoria Paper Mills Co.	2,530 00	500 00
8158	Visantis, Vincenzo	100 00	30 00
1390-A	Vosburg, Jacob, & ano..	1,000 00	50 00
1800-A	Wadsworth & Wright. . .	1,236 86	1,165 74
1257-A	Walker, Joseph, Con- struction Co.	41,694 76	6,769 34
3025	Walthart, S. J.	87 50	Dismissed
919-A	Wands, Mary E. Lovell.	2,200 00	652 80
42-A	Warcup, John	2,105 79	Dismissed
19-A	Warcup, William H., & ano.	548 40	Dismissed
2661-A	Warner, Charles H., & ano.	1,800 00	125 00
6844	Warren, Richard	200 00	50 00
1167-A	Warren, Richard, & ano.	200 00	150 00
9815	Waterbury, H. & Sons Co.	1,073 42	1,073 42
10828	Watkins, Mary Ione. . . .	3,743 30	Dismissed
8194	Watts, John P.	750 00	Dismissed
5-A	Weaver, Charles C.	2,147 00	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
2-A	Weaver, Frederick G...	15,475 00	Dismissed
132-A	Weaver, Mary Kasson..	14,410 60	\$4,000 00
1352-A			
3-A	Weaver, William B., et al.	2,147 00	Dismissed
8239	Webster, S. Emerson...	4,504 00	Dismissed
1270-A	Wells, Solomon G.....	68,000 00	Dismissed
10445	Wells, William H.....	500 00	Dismissed
1079-A	Wemple, H. Seymour...	93 75	50 00
10367	West Shore R. R. Co., & ano.	250 00	100 00
1424-A	West Shore R. R. Co., &c	1,800 00	775 00
10473	Whipple, George Wash- ington	130 00	25 00
10874	White, Harry F.....	12,086 40	Dismissed
8193	Whitman, George C.....	920 00	Dismissed
2378-A	Whitney, Alma	500 00	25 00
10835	Whitten, Mary E., & ano	4,596 50	2,582 25
10836	Whitten, Mary E., & ano	9,253 50	3,493 15
3024	Whittenbeck, George ...	297 50	Dismissed
2583-A	Wilcox, Morgan L., & ano.	900 00	400 00
2264-A	Williams, Augusta H...	1,000 00	700 00
8199	Wilson, Frank	3,236 50	Dismissed
741-A	Wilson, Judson U.....	2,700 00	600 00
9823	Wimble, William G....	2,000 00	110 00
1056-A	Winchel, George C.....	3,364 36	3,364 36
2587-A	Windheim, George, & ano.	6,000 00	1,900 00
9841	Wood, John W., & ano..	7,090 00	Dismissed
2630-A	Wood, Morton H.....	200 00	25 00
8684	Wood, Ophelia C.....	550 00	Dismissed
2329-A	Wooding, Albert	151 00	85 00
714-A	Woods, Leslie M.....	4,026 00	1,000 00
3023	Wright, George S.....	297 50	Dismissed
96-A	Wurz, Nettie	2,500 00	Dismissed
2029-A	Yenney, Solomon	459 80	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
863-A	Youmans, Thomas H...	\$300 00	\$72 50
9365	Zeto, Frank	1,026 95	Dismissed
2571-A	Zingerline, Caroline Fre- son	1,140 20	325 00
		<u>\$3,803,862 12</u>	<u>\$709,412 00</u>

The following are the claims disposed of by the Court from January 1, 1916, to March 21, 1916, inclusive:

No.	Name of Claimant	Amount claimed	Amount of award
1913-A	Adirondack Farms	\$1,000 00	\$426 02
10710	Agresta, Guiseppi	156 00	Dismissed
1642-A	Allen, Sarah, Mrs.....	34,400 00	*
10858	Allen, William H., & ano.	8,600 00	Dismissed
1558-A	Allen, William H., & ano.	6,280 00	Dismissed
10162	Allen, William D., & ano.	11,448 60	Dismissed
2172-A	American Telephone & Telegraph Co.	500 00	Dismissed
10110	American Wood Board Co., The	620 00	Dismissed
1198-A	Amidon, John	150 00	65 00
10864	Atlantic Gulf & Pacific Co.	219 00	Dismissed
10865	Atlantic Gulf & Pacific Co.	2,708 79	Dismissed
10866	Atlantic Gulf & Pacific Co.	507 22	Dismissed
10867	Atlantic Gulf & Pacific Co.	2,606 13	Dismissed
10868	Atlantic Gulf & Pacific Co.	117 07	Dismissed

* See explanatory note on page 40.

No.	Name of Claimant	Amount claimed	Amount of award
10869	Atlantic Gulf & Pacific Co.	\$590 88	Dismissed
10870	Atlantic Gulf & Pacific Co.	31,395 31	Dismissed
549-A	Baird, John	2,800 00	\$518 00
1031-A	Baker, Charles	1,373 99	1,373 99
1894-A	Baker, Laura D., & ano.	7,000 00	1,450 00
9974	Bedell, Harvey S.	500 00	100 00
10576	Bedell, Harvey S.	250 00	50 00
9975	Bedell, Harvey S.	200 00	50 00
10575	Bedell, Harvey S.	100 00	25 00
2138-A	Bedell, Helen C., ind., &c.	500 00	100 00
788-A	Bennett, Marcus	554 15	375 00
1133-A	Bentley, Florence	1,000 00	Dismissed
2497-A	Bisnett, Joseph	141 50	141 50
2775-A	Bissell, Willard G.	231 10	Dismissed
10586	Blaisdell, George M., & ano.	500 00	Dismissed
2618-A	Board of Education of Union Free School Dist. No. 10, Towns Halfmoon and Still- water, Saratoga county	552 88	540 88
760-A	Bovard, Eleanor E.	500 00	Dismissed
2563-A	Bradt, Maggie. & ano. .	10,212 50	3,788 50
1650-A	Braman, Chester A. . . .	100,320 00	*
2776-A	Brandhorst, Christopher.	900 00	350 00
8818	Bradt, Fred A., et al. . .	8,468 74	1,751 25
8819	Bratt, Fred A., et al. . .	12,059 00	2,282 40
8822	Bratt, Fred A., et al. . .	9,065 85	Dismissed
1307-A	Brearton, James, as exec., &c.	769 61	400 00
6571	Britton, Rose Dillon. . .	5,000 00	500 00
1281-A	Brogan, William, & ano.	6,000 00	Dismissed
9472	Brown, David	1,220 00	Dismissed

* See explanatory note on page 40.

No.	Name of Claimant	Amount claimed	Amount awarded
8983	Brown, Jerry, & ano...	\$302 60	Dism
10103	Brown, Joseph	240 00	Dism
1481-A	Buckles, Mary J., admx., &c.	2,643 75	Dism
2564-A	Bullard, Charles M.....	2,666 66	Dism
877-A	Bullard, Estelle C.....	3,333 33	Dism
1506-A	Burr, James S.....	196 00	\$14
2072-A	Burr, James S.....	196 00	14
2777-A	Burr, James S.....	196 00	14
940-A	Butterfield, Fred R....	1,281 00	Dism
1895-A	Cala, Carmelo, & ano...	725 00	12
1269-A	Carney, Henry	4,465 00	Dism
8943	Carswell, Nathaniel ...	1,100 00	Dism
2720-A	Cary, Thomas H.....	472 00	27
1058-A	Casler, P. W. Co., Inc..	1,000 00	Dism
1651-A	Cast Thread Fitting & Foundry Co.	335,919 21	*
1614-A	Cates, Henry A., et al..	10,560 00	2,11
1615-A		500 00	
1616-A		1,200 00	
2533-A	Central N. Y. Gas & Elec. Co.	59,479 00	Dism
10591	Chase, Alice H.....	360 00	Dism
2593-A	Ciesielski, Joseph, et al.	1,001 50	50
2106-A	Clary, Thomas J., et al.	573,803 03	25,26
1004-A	Cleary, Louis	4,000 00	20
345-A	Clute, James S.....	18,300 00	Dism
8953	Cody, James F.....	515 00	16
581-A	Colts, George	103 00	Dism
1495-A	Cookinham, Henry J..	450 00	12
1496-A		100 00	
1497-A		100 00	
1498-A		100 00	
322-A	Crump, Shelley G., & ano.	3,200 00	Dism

* See explanatory note on page 40.

No.	Name of Claimant	Amount claimed	Amount or award
10450 } 2701-A }	Curtis, Seymour H.	\$6,347 00 12,946 00	\$3,500 00
942-A	Daly, James C.	600 00	Dismissed
1718-A	Darvoe, Simeon A.	500 00	Dismissed
10716	Davis, Mary A.	2,004 50	100 00
1669-A	deBillier & Co.	1,312 00	1,226 00
10564	Debottis, Frank	10,000 00	Dismissed
2460-A	Decker, William	2,000 00	Dismissed
864-A	DeGraff, Alfred, & ano.	637 75	Dismissed
865-A	DeGraff, Alfred	100 00	60 00
968-A	DeGroot, Henry	200 00	50 00
10884	Demarest, David M.	200 00	Dismissed
1275-A	Denno, Louis	300 00	175 00
1332-A	Dicker, Celia M., admx., &c.	800 00	375 00
1333-A	Dicker, Celia M., et al..	800 00	Dismissed
2566-A	Donovan, Daniel	57 68	40 00
9012	Dwyer, John E.	740 00	Dismissed
10239	Eddy, Florence M.	537 95	175 00
2725-A	Ellis, Erna	510 00	Dismissed
2582-A	Ellis, Frank W.	1,042 65	415 00
1262-A	Elwood, William C.	11 50	Dismissed
1823-A	Empire Engineering Corp.	52,335 95	34,503 87
358-A	Empire Equipment Co..	3,086 50	Dismissed
957-A	Erngong, Lizzie M.	2,330 12	Dismissed
837-A	Farrell, Catharine, et al.	400 00	85 00
9754	Fee, Amelia	3,189 00	972 90
9504	Fineour, John, Jr.	125 00	Dismissed
9664	Flume, George	9,000 00	Dismissed
10898	Ford, William T.	285 00	Dismissed
13864	Frame, William L.	200 00	100 00
2654-A	Frankfort Coal & Feed Co.	400 00	205 00
1647-A	Fritz, M., & ano, trus- tees	113,516 68	*

* See explanatory note on page 40.

No.	Name of Claimant	Amount claimed	Amount of award
639-A } 1211-A }	Gardner, Georgiana, & ano.	\$302 25 } 1,713 75 }	\$750 00
713-A	Garrison, Thomas R. . . .	3,100 00	Dismissed
2717-A	Gelett, Joseph, & ano. . . .	1,100 00	Dismissed
2496-A	Goble, Joseph H., et al.	50,257 45	17,000 00
10435	Godfrey, Reed	156 00	85 00
10438	Gordon, L., & Son, Inc. . .	250 00	Dismissed
10439	Gordon, L., & Son, Inc. . .	750 00	Dismissed
10891	Gould, Chas. W., & ano. . .	5,061 00	Dismissed
9128	Graham, Ann	787 00	Dismissed
445-A	Greene, Margaret E.	400 00	125 00
117-A	Gregg, David	2,500 00	Dismissed
969-A	Griffin, John, et al.	200 00	75 00
4077	Groat, Lewis W. V.	600 00	Dismissed
2381-A	Gros, Nancy M., et al. . .	2,505 80	Dismissed
9481	Guerin, John, & ano. . . .	472 88	263 25
943-A	Guerin, John	770 00	Dismissed
10109	Guyer, Freeman, adm., &c.	1,500 00	Dismissed
914-A	Hanrahan, John	175 00	Dismissed
9285	Hartley, John R.	125 00	40 00
9284	Hartley, Martin I., et al.	125 00	Dismissed
754-A	Harvey, John	12,001 50	4,600 00
1912-A	Henderson, Rufus A. . . .	4,500 00	Dismissed
1992-A	Henry & Mathews.	850 00	715 10
8715 } 9023 }	Henry, George A.	300 00 } 200 00 }	150 00
916-A	Henry, George	600 00	Dismissed
1272-A	Hilfinger, Alexander, & ano.	1,000 00	350 00
2044-A	Hilfinger, Alexander, & ano.	1,400 00	400 00
2815-A	Hillman, Frank H.	836 00	731 00
2092-A	Humbert, E. C., & Son. . .	763 55	763 55
10427	Hunt, Charles B.	3,320 00	Dismissed
2814-A	Hurley, Jeremiah	196 50	152 50
10527	Husband, Clara B., et al.	75,000 00	21,663 00

No.	Name of Claimant	Amount claimed	Amount of award
2751-A	Irving, Jay, as exec., et al.	\$1,427 50	Dismissed
1649-A	Ivory Button Mfg. Co..	436,000 00	*
996-A	Jermain, Maria C.	6,492 70	\$1,500 00
1508-A	Johns, Mary E., et al. . .	651 50	400 00
2690-A	Johnson, Newton	150 00	25 00
446-A	Jones, Marvin A.	290 00	210 00
647-A	Keck, Florence M., ind., &c.	5,600 00	Dismissed
683-A	Keck, Florence M.	1,000 00	Dismissed
2484-A	Kerwin, Julia, as admx., &c.	25,000 00	1,700 00
2139-A	Kindermann, Julius, & Sons	1,324 00	Dismissed
2445-A	Klock, Augustus, et al. .	1,704 00	850 00
2455-A	Kneut, Peter	850 00	400 00
8722	Kyser, David J.	200 00	Dismissed
1837-A	La Blanc, Beatrice.	5,000 00	Dismissed
82-A	Lamb, Jessie M.	1,215 00	Dismissed
1543-A	Lasher, Anna J., et al. .	191 00	115 00
1544-A	Lasher, Anna J., et al. .	150 00	75 00
1838-A	LeBlanc, David, & ano. .	575 00	175 00
0201	Lee, Charles R., exec., &c	3,500 00	2,000 00
339-A	Levengston, Harry M. . .	125,000 00	Dismissed
1592-A	Liddle, Anna R.	2,500 00	Dismissed
2825-A	Linendoll, Jane A.	200 00	Dismissed
338-A	Listers Agri. Chem. Wks	750 00	Dismissed
1652-A	Maier, Fred, & Sons. . .	143,648 42	*
1282-A	Margolis, Max	99 50	Dismissed
2080-A	Martin, W. Schenck, et al.	3,715 00.	1,810 00
2485-A	Maxwell, Richard	5,414 00	1,200 00
9673	McCarthy, Charles	2,375 00	Dismissed
1096-A	McDermott, William P. A., an infant. &c.	3,485 35	Dismissed
2375-A	McGovern, P., & Co. . .	17,337 37	17,056 21

* See explanatory note on page 40.

No.	Name of Claimant	Amount claimed	Amount of award
1890-A	Mechanicville Imp. Co., The	\$800 00	Dismissed
1891-A	Mechanicville Bridge Co., The	500 00	Dismissed
2727-A	Medici, Frank	200 00	\$135 00
9312	Meenly, Thomas	1,048 80	Dismissed
915-A	Meneeley, Thomas	980 25	Dismissed
10037	Miller, Henry	5,079 50	Dismissed
2644-A	Miller, Henry	3,378 04	Dismissed
10872	Miller, Irvin	4,050 00	Dismissed
10059	Miller, Mike, & ano.	2,200 00	898 40
8808	Miller, N. Jerome	203 45	Dismissed
9971	Minster, Fred	200 00	85 00
9037	Minster, Fred	200 00	90 00
1064-A	Minton, Charles E.	274 50	Dismissed
1748-A	Mohonk Contracting Co., The	8,282 78	Dismissed
4059	Moore, John	22,691 14	Dismissed
9417	Moreau, Town of	2,603 50	Dismissed
2364-A	Morgan, Andrew D.	799 90	Dismissed
10807	Morrison, William	1,398 90	675 00
2441-A	Murdock, Robert B.	6,544 82	4,101 07
10536	Murphy, Charles E.	601 02	Dismissed
9221	Murphy, James P., & ano.	225 00	75 00
10265	Murphy, Michael, et al.	4,682 58	Dismissed
41-A	Myers, Adolph, et al.	3,000 00	210 00
10873	Myers, Adolph, et al.	3,000 00	Dismissed
1645-A	National Advertising Co.	202,226 63	*
2603-A	Nellis, Philena, et al.	2,676 20	900 00
2473-A	New York, The City of.	7,602 61	280 68
412-A	New York Central & H. R. R. Co.	347,465 05	Dismissed
1073-A	New York Central & H. R. R. Co.	1,500,000 00	Dismissed

* See explanatory note on page 40.

No.	Name of Claimant	Amount claimed	Amount of award
2073-A	New York Central & Hudson R. R. Co...	\$25,150 00	Dismissed
615-A	Niles, Isabel W., Estate, &c.	1,500 00	Dismissed
5153	Norton, Charlotte M...	1,900 00	Dismissed
9470	O'Brien, Jarvis P.	2,500 00	\$1,000 00
1637-A	Palmer, Charles H., et al	263,879 13	*
992-A	Parke, James H.	1,000 00	Dismissed
9288	Parke, James H.	2,578 22	Dismissed
2652-A	Parke, James H.	2,578 22	Dismissed
917-A	Parker, Robert	635 00	Dismissed
8938	Parrish, Frank	150 00	Dismissed
8968	Pearse, James C.	120 00	Dismissed
10892	Pemble, William, & ano.	100,000 00	Dismissed
2840-A	Penfield, Edgar J., & ano	4,000 00	Dismissed
2514-A	Pierce, B. D., Jr.	15,559 11	Dismissed
1778-A	Place, George V., & ano.	250 00	100 00
1455-A	Putman, Simon M., et al.	1,679 70	Dismissed
9574	Quinlan, Edward	302 00	Dismissed
8862	Ranney, James, & ano..	1,000 00	Dismissed
2656-A	Reed, Ervin M.	3,000 00	1,500 00
13839	Rhodes, Hartley R., & ano.	100 00	100 00
1490-A	Rice, George A.	199 00	150 00
8138	Roarke, Helen S.	3,040 00	Dismissed
1648-A	Roberts Milling Co.	67,500 00	*
9294	Rogers, Elizabeth M. et al	39,548 00	Dismissed
895-A	Rogers, Jesse B., et al..	1,949 00	Dismissed
1919-A	Ross, John H., et al.	2,000 00	Dismissed
10236	Ross-Bush Co.	13,139 75	2,739 75
1485-A	Rumsey & Co., L't'd...	319,000 00	*
1646-A	Rumsey & Co., L't'd...	543,051 87	*

* See explanatory note on page 40.

No.	Name of Claimant	Amount claimed	Amount awarded
1646-A	Rumsey Pump Co., L't'd, et al	*	540,248 01
13884	Rybicki, John	\$2,500 00	Dismissed
1223-A	Ryder, Ned C., & ano..	432 00	Dismissed
8030	Sanders, David E., & ano	740 00	Dismissed
1563-A	Sanders, L. Ten Broeck, & ano.	445 00	Dismissed
6312	Sawyer, Elmer	1,125 00	Dismissed
2739-A	Scheckelmann, Henry ..	3,486 25	Dismissed
1546-A	Schuyler, Peter J.	69 00	\$500 00
1547-A	Schuyler, Douw W.	87 00	500 00
2476-A	Sciozzafava, Mary Ann, as admx.	10,000 00	2,000 00
8284	Seaman, George I.	200 00	Dismissed
1643-A	Seneca Falls Mfg. Co. . .	326,053 45	*
1644-A	Seneca Falls Paper Co. .	134,165 45	*
397-A	Shelter, Mary, & ano. . .	66,564 50	19,311 00
2575-A	Shurtleff, William A., & ano.	60 00	60 00
719-A	Signor, James H.	500 00	Dismissed
2610-A	Smith, Ada, as admx., &c	550 00	320 00
13917	Smith, Isabel J., et al. .	1,027 10	300 00
2598-A	Smith, Ulysses S. G. . . .	100 00	Dismissed

(*) The claim of Rumsey Pump Co., Ltd., et al., is an amended, supplemental and consolidated claim, including within it the following claims.

Claim No	Claimant.
1642-A	Sarah Allen.
1650 A	Chester A. Braman.
1651-A	Cast Thread Fitting and Foundry Co
2106-A	Thomas J. Clary, et al.
1652-A	Fred Maier & Sons.
1649-A	Ivory Button Manufacturing Company
1647-A	Michael Fritz and another, trustees.
1645 A	National Advertising Company.
1637-A	Charles H. Palmer and others.
1648 A	Roberts Milling Company.
1485-A	Rumsey & Company, Limited.
1646 A	Rumsey & Company, Limited
1643 A	Seneca Falls Manufacturing Company.
1644 A	Seneca Falls Paper Company.

An award covering all the above claims was made in consolidated No. 1646-A for \$540,248 01. All the above claims are given separately in this list in their alphabetical order, with the amount claimed in each but the amount of the award, in order to avoid duplication, is given under the consolidated claim of Rumsey Pump Company, Limited, consolidated No 1646-A.

FIFTEENTH ANNUAL REPORT

No.	Name of Claimant	Amount claimed
438-A	Snyder, Mary G.	\$200 00
000-A	Stauring, Philip, & ano.	1,800 00
065-A	Stewart, James	310 00
363-A	Stewart, James	155 00
137-A	Stewart, William J.	155 00
838-A	Stockton, Albert H., & ano.	2,059 10
285-A	Stockton, Albert H., & ano.	2,059 10
388-A	Stone, Stanley M.	6,400 00
835	Stone, Stanley M.	5,750 00
545-A	Stube, Frederick W.	80 00
162-A	Stube, Frederick W.	25 00
748-A	Stube, Frederick W.	76 30
484-A	Swart, Anna E., & ano. .	2,104 95
315-A	Targett, A. S. Co., The.	101 25
047-A	Taylor, Stephen	2,000 00
591-A	Thiener, Christian	930 00
916	Thomas, Charles M.	1,482 40
072	Thompson, Mary J.	850 00
044	Totten, Marion D., & ano	8,848 90
642-A	Totten, Marion D., & ano	5,731 60
039-A	Town, John J.	666 81
881	Train, Arthur C.	900 00
446	Turnbull, James M.	252 00
635-A	Van Epps, Evert.	4,000 00
476-A	Van Vranken, Adam, & ano.	15,000 00
787-A	Vceder, Maynard A.	165 70
619	Visscher, William J.	177 00
446-A	Vrooman, Peter	2,584 50
632-A	Wall, Thomas D.	200 00
818-A	Walrod, Frank	100 00
764-A	Walters, Eli	344 00
527-A	Watkins Boating Co.	340 23
799	West, Elmer J., et al. . . .	2,740 20
457-A	Western, Town of.	3,504 50

No.	Name of Claimant	Amount claimed
1191-A	Kerbaugh, H. S., Inc.....	\$3,929 70
1192-A	Kerbaugh, H. S., Inc.....	1,263 27
2051-A	Kerbaugh, H. S., Inc.....	380,540 34
2393-A	Kerbaugh, H. S., Inc.....	450 00
1279-A	Konner, Victoria	7,500 00
9529	Strobel, Daniel F., & ano.....	150,000 00
		<hr/>
		\$3,870,737 74
		<hr/> <hr/>

SUMMARIES FROM THE FOREGOING TABLES

1.	Number of claims disposed of from March 22, 1915, to December 31, 1916.....	649
2.	Number of claims disposed of from January 1, 1916, to March 21, 1916.....	293
		<hr/>
Total .	.....	942
		<hr/> <hr/>

In the claims disposed of by the court from March 22, 1915, to March 21, 1916, inclusive, the total amounts claimed and the total amounts awarded are as follows:

	Amount claimed	Amount awarded
1. In claims disposed of from March 22, 1915, to De- cember 31, 1915.....	\$3,803,862 12	\$709,412 00
2. In claims disposed of from January 1, 1916, to March 21, 1916.....	6,770,554 54	750,522 05
		<hr/>
Totals . .	\$10,574,416 66	\$1,459,934 05
		<hr/> <hr/>
3. In claims partially tried from March 22, 1915, to March 21, 1916, but not finally submitted, the total amount claimed is.....	3,870,957 74	
		<hr/> <hr/>

The total amounts claimed in claims growing out of the appropriation of property by the State, and the awards made in these claims are as follows:

	Amount claimed	Amount awarded
1. In claims disposed of from March 22, 1915, to De- cember 31, 1915.....	\$2,388,752 42	\$440,360 63
2. In claims disposed of from January 1, 1916, to March 21, 1916.....	6,206,320 24	672,761 30
Totals	<u>\$8,595,072 66</u>	<u>\$1,113,121 93</u>

AWARDS BY OFFICIAL REFEREES

The following awards by retired judges of the Court of Appeals, acting as official referees under chapter 229 of the Laws of 1911, were filed with the Court of Claims during the year 1915.

(By Hon. Irving G. Vann)

No.	Name of Claimant	Amount claimed	Amount awarded
484-A } 2538-A }	Hinckley, Mary E. & ano	\$370,000 00	*\$25,000 00
688-A	Lincoln Spring Co. . .	559,000 00	†176,590 83

(By Hon. Albert Haight)

775-A	Palmer, Lowell M., et al	1,969,000 00	‡825,000 00
Totals		<u>\$2,898,160 00</u>	<u>\$1,026,590 83</u>

JUDGMENTS ENTERED ON ORDER OF APPELLATE COURTS

Claims in which judgments have been entered by the Court of Claims during the year 1915, pursuant to the direction of the Appellate Division of the Supreme Court, Third Department, or of the Court of Appeals.

Danes, Samuel A. and another, Claim No. 293-A.

Determination of the Board of Claims for \$11,359.18 affirmed with costs. (169 App. Div. 443. Opinion by Howard, J.; Smith, P. J. and Lyon, J., dissenting.)

* See Judge Vann's opinion on page 95.

† See Judge Vann's opinion on page 81.

‡ See Judge Haight's opinion on page 55.

Judgment of the Court of Claims affirming determination and for \$278.05 costs entered October 20, 1915.

New York Telephone Company, Claim No. 614-A.

Determination of the Board of Claims, dismissing claim, reversed with costs and judgment ordered by the Appellate Division for \$801.70 with interest from date of appropriation. (169 App. Div. 310. Opinion by Lyon, J.; Smith, P. J., dissenting.)

Judgment of the Court of Claims for \$997.45 and \$119.00 costs entered December 11, 1915.

Palmer, Lowell M., et al., Claim No. 775-A.

Judgment of the Court of Claims (entered on the report of Hon. Albert Haight as official referee*) for \$960,712.50, entered March 30, 1915, affirmed with costs. (174 App. Div. 933. Dissenting opinion by Kellogg, P. J., concurred in by Woodward, J.)

Saratoga Victoria Spring, Inc., Claim No. 10707.

Determination of the Board of Claims for \$30,764.67 affirmed with cost. (171 App. Div. 883. No opinion.)

Judgment of the Court of Claims affirming determination entered October 15, 1915.

Smith, Savilla F., as administratrix, etc., Claim No. 10048.

Determination of the Board of Claims for \$1,012.10 affirmed with costs. (171 App. Div. 959. No opinion, Smith, P. J., and Lyon, J., dissenting.)†

Van Antwerp, Bishop & Co., Claim No. 1573-A.

Determination of the Board of Claims for \$788.21 affirmed in part and reversed in part. (170 App. Div. 98. Opinion by Smith, P. J.; Howard, J., dissenting.)

Judgment of the Court of Claims entered December 10, 1915, pursuant to an order of the Appellate Division for \$1,318.58 and \$231.15 costs.

* See Judge Haight's opinion on page 55.

† See 214 N. Y. 140. Opinion by Cardozo, J., concurred in by Bartlett, Ch. J., Miller and Seabury, JJ.; dissenting opinion by Hiscock, J., concurred in by Chase and Hogan, JJ.

APPENDIX I

OPINIONS OF OFFICIAL REFEREES

FILED WITH THE

COURT OF CLAIMS

IN THE YEAR 1915

**Retired Judges of the Court of Appeals Acting During the
Year 1915 as Official Referees Under Chapter 229 of the
Laws of 1911**

Hon. John C. Gray, New York City, N. Y.

Hon. Albert Haight, Buffalo, N. Y.

Hon. Irving G. Vann, Syracuse, N. Y.

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OPINIONS OF OFFICIAL REFEREES

FILED WITH THE

COURT OF CLAIMS

IN THE YEAR 1915

LOWELL M. PALMER et al., as Executors, etc., of HENRY U. PALMER, Deceased, and LOWELL M. PALMER, v. THE STATE OF NEW YORK.

Claim No. 10788

Claim for Appropriation of Land for Barge Canal Terminal

Irregardless of the provisions of L. 1835, ch. 232, and L. 1850, ch. 283, the Commissioners of the Land Office have jurisdiction to make grants of land on the Long Island shore to abutting owners thereof, not only to the tideway, that between high and low water mark, but also to the lands under the waters of the river although within the territorial limits of the city and county of New York, out to the bulkhead and pierhead lines established by the Legislature and approved by the War Department.

Where the language of certain patents is in substance that in case the grantees named therein shall not within the time specified apply the premises to the purposes of commerce "by erecting a dock or docks thereon and filling the same, then these presents and everything therein contained shall cease, determine and become void." Held, that said grants being in the present tense thereby give to the grantees the right of immediate title and possession, and that therefore the condition expressed is in law a condition subsequent, subject to forfeiture upon the election of the State in case of noncompliance by the grantee and that, inasmuch as there was no such election until after the conditions were complied with by the present owner of the uplands, no forfeiture can now be adjudged.

The claimants are the owners of uplands bounded upon the East river, and also claim to own certain lands under water, their claims being based upon patents issued by the Commissioners of the Land Office to them or their predecessors in title. Upon the Attorney-General's contention that the State may now appropriate the claimants' land under water for barge canal purposes without compensation, *Held*, that the claimants being the owners of uplands bounded upon the river are entitled to all of the riparian rights that are accorded to adjacent owners under the common law. That they have the right of access not only to the river itself, but to the freeway thereof, with the right to receive and ship goods over the same. That as such adjacent owners they are within the provisions of the Public Lands Law, persons to

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1102a

955a

547a

9973

50a

500a

1457a

2093a

583a

1165a

1867a

1868a

1869a

1870a

311a

* Judgment
stipulation.

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claimants, to wit, 402,809.69 square feet, for a Barge canal terminal at Greenpoint, made pursuant to the provisions of chapter 746, Laws of 1911. Of the lands appropriated, two small parcels containing an area of 500 square feet only were original uplands. The remainder were lands originally under water, 173,664 square feet of which have been filled in, forming a bulkhead line, and the balance, the 228,645.69 square feet are lands under water outside of the bulkhead line and within the pierhead line as established by law (chap, 628, Laws of 1886). The claims filed are for the value of the land and buildings thereon appropriated by the State, \$1,378,371.50, and for consequential damages to the parcel remaining, \$590,788.50, making a total of \$1,969,160.

The original uplands occupied by the claimants are located in the old town of Bushwick, later the city, now the borough of Brooklyn, city of New York. It is conceded on behalf of the State that the claimants have shown a record title to such original uplands including the five hundred square feet appropriated by the State, and that just compensation should be made therefor. But as to the lands appropriated which were originally below the high-water line and under the waters of Newtown creek or the East river, the State does question the title of the claimants thereto and the validity of the grants which they and their predecessors in title have obtained from the State, purporting to convey to the upland owners the lands under water, the contention being that prior to the formation of the State, the English Crown had parted with the title to such lands by granting ancient charters and patents thereof to the town of Bushwick and consequently that the State never became vested with the title to the land under water within the limits and bounds of the town of Bushwick; that the attempted grants of such lands to the claimants' predecessors in title by the Commissioners of the Land Office are void as to all such lands, the same not being within the ownership of the State and consequently not subject to grant and that such grants are also void as to the lands under the waters of the East river for the reason that the town of Bushwick and not the claimants or their predecessors in title were the owners of the

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adjacent lands, the statute prohibiting the Commissioners of the Land Office from granting lands under water except to adjacent owners.

The questions presented are of great importance and are not free from difficulty. The earliest document we have bearing upon the question of title is merely a paper entitled "Boswyck Patent." Without giving the names of the grantor or grantee, it is recorded in the office of the Secretary of State in book 4 of patents at page 51. It is claimed to have been issued by Governor Nicolls to certain persons for and in behalf of the township of Boswyck which was subsequently changed to Bushwick. The language of the patent is as follows:

"To Runne as ye Patent for Flatt Bush doth both at ye beginning & ye end & Their bounds (vizt) that is to say the said Towne is bounded with ye Mouth of a Certaine Creek or Kill comonly called Mespath Kills right over against the Domines Hook so their bounds goe to David Jochems Hook then Striking upon a South East Lyne alongst ye said Kill they come to Smith's Island including ye same * * * then over ye Normans Kill to ye West end of his old house from whence they goe alongst ye Ryver till you come to ye mouth of Mispath Kills & David Jochems Hook aforementioned where they first began &c." Dated October 25, 1667.

Subsequently and under date of May 1, 1670, we have a confirmation granted to David Jochem for a piece of land at Mispath Kill recorded in the office of the Secretary of State in Book No. 3 of Letters Patent at page 161. It provides as follows:

"FRANCIS LOVELACE Esq. &c. Whereas Dirck Volcherse did by vertue of a Groundbreife Graunted to him bearing date ye 3d Aprile, 1645 transport & make over upon ye 9th day of September 1653 unto Jacob Hay an Certaine Peice of Land upon Long Island lyng & being at Mespath Kill beginning from ye Hook or Point of ye said Kill & so going alonge by ye Ryver South West & by West Seventy-five Rod, then Stretching alongst Mespath Kill

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South East & by South two hundred Rod from Mespath Kill into ye Woods Striking South West & by West Seventy-five Rod, then goeing back to ye Ryver syde almost upon a North West & by North lyne two hundred Rod, it containes about fifty Acres or twenty-five Margen. And also a Parcell of Valley or Meadow Ground in ye tenure or Occupation of ye said Dirck Volcherse at ye end of ye said Land in Breadth forty & in Length nynety Rod making about twelve Acres or six Margen ye Right & Title of which said Land & premises being devolved upon David Jochems who hath married ye widow & Relict of ye said Jacob Hay, Now for a Confirmation unto him ye said David Jochems &c. The Patent is dated ye 1st of May, 1670."

The former of the above instruments was received under objections for the purpose of enabling the referee to determine what, if any, force and effect should be given to it. Standing alone it proves nothing and no force or effect can be given to its provisions except in so far as it is quoted and made use of in subsequent grants by subsequent governors.

Prior to the issuing of the instrument above mentioned called the Boswyck Patent, Governor Nicolls had granted, under date of March 6, 1666, a patent to the freeholders and inhabitants of the town of Newtown for a tract of land bounded on the north by the sound and on the west by Mespath creek or kill. We thus find a colony of English located on the east side of Mespath kill called the town of Newtown and on the west a Dutch settlement called the town of Bushwick between whom disputes had already arisen with reference to the occupancy of meadow grounds along the kill or creek together with Smith island, so-called, located some considerable distance above the mouth of the kill or creek. These disputes continued for upwards of one hundred years notwithstanding numerous attempts to compromise and settle them on the part of Governor Lovelace, Governor Dongan, Lord Cornbury and others, each of whom issued new patents, but none succeeding in satisfying the contending colonies until the Colonial Legislature in 1768 passed a statute appointing a commission to determine the

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limits between the counties of Kings and Queens so far as the townships of Newtown and Bushwick were concerned. The commission so appointed determined in favor of the original line established by the Nicolls patent but placed the boundary between the two counties in the deepest part of the creek "and so runs along the same to the west side of Smith's island, etc." They commenced the description by beginning at the mouth of Mespath kill or creek over against Dominees Hook.

As to the intervening quarrels between the inhabitants of Bushwick and Newtown, I shall pass over hastily, but must quote to some extent from the patent of Governor Dongan. In 1672, while Bushwick and Newtown were litigating their claims before the Court of Sessions, Governor Lovelace authorized a deputation of the representatives of the towns to meet a commission for the purpose of confirming titles to the meadow grounds on the western side of Mespath kills in the town of Bushwick. This resulted in a report upon which he issued a confirmatory patent giving to the inhabitants of Bushwick the meadow grounds on the western side of Mespath kills but giving to Newtown, Smith's island and making some other changes in the before-mentioned line to Scudders pond. This, however, proved unsatisfactory and subsequently in 1687 Governor Dongan had his attention called to the matter and after investigating the same by his counsel and after hearing the evidence given by the inhabitants, he issued a further patent in which he recites: "Whereas Richard Nicolls, Esq., Governor-General, under his Royal Highness James, Duke of York and Albany, now his present majesty of all his territories in America, hath by patent under his hand and seal bearing date the 25th day of October, 1667, given, granted, ratified and confirmed unto Peter Johnson, Dirck Norman, Paulus Richards, David Yeokims and Long Gisbert as patentees for and on behalf of themselves, their associates, the freeholders and inhabitants of a certain town situate, lying and being in the west rideing of Yorkshire, now Kings county upon Long Island, commonly called and known by the name of Bostwick." Then follows a description of the lands granted by Governor Nicolls identical, word for word, with that embraced in the instrument entitled "Boswyck Patent" above

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quoted. He then proceeds to recite the findings of the Commission or Arbitration on which Governor Lovelace based his patent and then concludes by releasing and confirming to the then freeholders of the town of Bostwick, naming them and their heirs successors and assigns all the before recited tracts or parcels of land within the limits and bounds of Governor Lovelace's patent.

Dominees Hook is a point of the upland at the intersection of the East river on the northeast side of Mespath kill. It was located a few feet west of the south end of West avenue as shown upon the Hudson and East river map published by the Coast and Geodetic Survey, October, 1913, Claimant's Exhibit 101 and 48.

The location of Jochems Hook is attended with more difficulty, but assuming that "hook" means a point on the highland abutting upon the river at the mouth of the creek, we find from the patent that was issued to him by Governor Lovelace in 1670 that the land conveyed began at the "hook or point of ye said kill," then it ran southwest by west along the river seventy-five rods. It also ran from the hook or point along the kill southeast by south two hundred rods. The eastern end was seventy-five rods and the southern side was two hundred rods, making a tract of land two hundred rods in length and seventy-five rods in breadth, containing about fifty acres.

Dominees Hook was subsequently changed to Hunters Point. Mespath kill was subsequently known as Newtown creek. The town of Bostwick was subsequently changed to Bushwick. The Norman's kill became Bushwick creek. That portion of the town of Bushwick lying between Norman's kill or Bushwick creek and Newtown creek has for many years been known as Greenpoint. It will be observed that the patents to which reference has been made of grants of lands to the town of Bushwick, pass up the Newtown creek, then around through Bushwick creek to the river, and then up the river. From Bushwick creek along the line of the uplands as originally mapped, passing Dominees Hook or Hunters Point and on opposite to Blackwell's Island, the general course of the shore line of the river is practically north and south. There is, however, a projection of land into the river midway between Bushwick creek and Newtown creek which is known as

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understood to relate to the body of land existing between Newtown creek on the one side and Bushwick creek on the other. The point or the part which extends farthest into the river is nearly midway between the two creeks and if the mouth of Newtown creek is to be enlarged by extending it from Hunters Point or Dominees Hook to the most extended part of land into the river at Greenpoint, it would be just as consistent to extend the mouth of Bushwick creek by a line drawn from Greenpoint to a projection of the highlands into the river just below that creek, thus constituting that which is ordinarily understood to be the eastern shore of the East river as the mouths of various creeks emptying into such river and depriving the inhabitants of their river frontage, and the State of the power to make grants to abutting owners, for commercial purposes, of lands under the waters thereof. I am aware of cases in which surveys of coast lines have been made, where lines have been run from one headland to another, including therein bays and rivers, and that in some of the cases it has been held that it was the intent to include the title of all the lands that was embraced within the lines so run, but in those cases there was an intent discernible on the part of the Crown, or those acting for it, to include such territory in the conveyance. But here we have no surveyed line running from headland to headland along the river at the place in question. We have none referred to in the patents issued. The only headlands mentioned are those of Dominees Hook on the one side of Newtown creek and David Jochems Hook "right over against Dominees Hook," on the other side of the creek. I am therefore constrained to reject the contention on behalf of the State in this regard and adopt that which constitutes the two hooks as the mouth of the creek. It consequently follows that in view of the fact that the two hooks were easterly of the upland owned by the claimants, their lands abutted upon the East river instead of upon the creek and therefore the lands under water in front thereof did not pass under the patents alluded to, to the inhabitants and freeholders of the town of Bushwick.

There is another consideration from which I draw the conclusion that the junction of Newtown creek and East river is at

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the intersection of Box and Commercial streets and is recognized both by the Legislature and by the special board appointed to revise the pier and bulkhead lines along the East river in 1875. The Legislature by chapter 224 of the Laws of 1878 passed an act entitled "An act to establish and settle the bulkhead and pier lines of Newtown Creek in the Port of New York." In it, it is provided that the new pier and bulkhead lines on the Brooklyn side of Newtown creek will begin at a point situated at the extremity of a line parallel to and 200 feet eastward of the easterly line of Duck street. The line is then run northerly and westerly toward the East river by various courses and distances until it reaches the northeasterly corner of Union avenue and Ash street. Union avenue now being known as Manhattan avenue. Thence it runs south 72 degrees 55 minutes west 119 feet, thence south 79 degrees 36 minutes west 148 feet; thence south 74 degrees 35 minutes west 85 feet, making a total of 352 feet from the junction of Union avenue and Ash street which would bring the line at about the junction of Box and Commercial streets, at which point the line connects with the line recommended by the special board for the revision of pier and bulkhead lines in 1875. The statute then proceeds to give the line established by the special board of revision and proceeds on down the river to its intersection with Eagle street. In other words, the Legislature by this act has designated the pier and bulkhead line of Newtown creek from the commencing point above Duck street down to the junction of Commercial and Box streets, at which point it connects with the line previously established by the special board appointed for the revision of pier and bulkhead lines upon the East river, thus constituting the point of the intersection of the creek line with the river line as the place where the creek ends and the river begins.

But again, by chapter 628 of the Laws of 1886, the Legislature has undertaken to establish the pier lines in the harbor of New York between Bushwick and Newtown creeks as surveyed and laid out by General John A. Newtown and approved by the special board of 1875. The act begins with the provision, "the pier line of East river adjacent to the shore of the city of Brooklyn.

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Kings county, between Bushwick and Newtown creeks is hereby declared to be the pier line recommended by the special commissioners appointed under the concurrent resolutions relative to the pier and bulkhead lines in the harbor of New York." Passed April 6, 1872. It is then further provided that the commissioners made their report in 1875; that they began down in the vicinity of Bushwick creek and proceeded northerly until they reached Eagle street and thence on a northeasterly curved line until they reached the southerly line of Box street prolonged with the present pier line, thus apparently finding that point to be the end of the river and the beginning of Newtown creek.

The conclusions herein above reached appear to me to be in accord with that which has been adopted and acted upon by the State and town for nearly a century. The original shore line of the East river from a point considerably north of Newtown creek for a long distance southward has been filled in and extended out into the river, establishing bulkhead lines and piers and numerous grants of lands under water have been issued to abutting upland owners both by statute and by the Commissioners of the Land Office, and my attention has not been called to a single grant attempted to be made of such lands under the waters of the river by the town of Bushwick nor by its successors in title.

If I am correct in the view above expressed, it disposes of the question raised with reference to the claimants being the owners of uplands abutting upon the lands under the water appropriated. It also becomes unimportant to trace the line of the lands of the town eastward and southward up Newtown creek included in the patents alluded to, and determine whether it extended to the center of the creek or the depths thereof, or as to what meadows or lowlands were intended to be included.

The title of the claimants to the upland appropriated being conceded, it now becomes important to determine the title of the lands adjacent thereto under water out to the bulkhead and pier lines as established by law to which reference has already been made. The first patent was issued to Charles Cartlidge, his heirs and assigns under date of July 23, 1853, and recites that it was issued

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Commissioners of the Land Office commerce. Then follows the deed by the grant containing the express condition "that heirs or assigns shall not within actually appropriate and apply the purposes of commerce by filling in the same, then these contained shall cease and determine." The patent was executed by Horatio State and is followed by the office the 23d day of July, 1853. It was recorded in the office September 29, 1853, at ten 336, page 544 of conveyances. 1864, a similar patent was issued on national lands with a similar condition. The then Governor of the State on the same day; signed by the Governor of State, and recorded in the county January 5, 1865, at forty 451 of conveyances. On the same patent was issued to Jonathan William W. Wakeman, granting the same therein, containing a similar condition. Signed by E. Fenton as Governor of the State on the same date. Signed by the Governor of State, and recorded in the county December 13, 1866, at 468, page 471. The next patent was issued to H. Niven, Charlotta E. Niven on the date of February 18, 1886. The condition with reference to the time the period to five years instead of ten years. Signed by J. B. Hill as Governor. Passed February, 1886, and is accompanied by a certificate of the Secretary of State that it was issued

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pursuant to a resolution of the Commissioners of the Land Office and the patent was recorded in Kings county in liber 1673, page 298, of conveyances. The record shows that all of the interests of the persons named to whom patents had been issued were subsequently acquired by and vested in Lowell M. Palmer and Henry U. Palmer to whom another patent was issued under date of March 2, 1892, executed by Roswell P. Flower as Governor with a condition similar to the others but limited to five years. This patent also passed the Secretary of State's office on the same day and was recorded in the office of the Secretary of State in book 47 of patents on page 70.

These patents cover all of the lands under water which have been appropriated in these proceedings out to the pier line established by chapter 628 of the Laws of 1886, with the exception of a small gore on the outer edge in front of the Godfrey, Gookin and Wake-man patent containing about 5664 square feet caused by a difference between the pier line established by chapter 224 of the Laws of 1878 and that established by the Laws of 1886 above referred to.

Numerous questions have been raised on behalf of the State with reference to the validity of the aforementioned patents, some of which I must briefly consider. In the first place, it is urged that the Commissioners of the Land Office had no power to grant lands under water within the city of New York by reason of the provisions of chapter 232 of the Laws of 1835 in which it is provided that "no grant shall be made within the boundaries of the city of New York or to interfere with the rights of the corporation of said city." Subsequently and by chapter 283 of the Laws of 1850, it was provided that: "The powers conferred on the Commissioners of the Land Office by the first section of this act are hereby extended to lands under water and between high and low water mark and adjacent to and surrounding Long Island and of all that part of the county of Westchester lying on the East or Hudson river or Long Island Sound, but no grant made under this act shall extend beyond any permanent exterior water line established by law and nothing contained in this act shall authorize the Commissioners of the Land Office to grant any lands under

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water belonging to the mayor, aldermen and commonalty of the city of New York, nor to interfere with any property, rights or franchises of said corporation of the city of New York." After this enactment the question as to whether its effect was a repeal of the act of 1835 was brought to the attention of Attorney-General Hoffman who reached the conclusion that the two statutes might be blended and read in union as follows: "Nothing contained in this Act shall authorize the Commissioners of the Land Office to grant any lands under water belonging to the Mayor, Aldermen and Commonalty of the City of New York, nor to interfere with any property rights or franchise of said corporation of the City of New York." Subsequently, and by chapter 121 of the Laws of 1855, the Legislature authorized the appointment of a commission of five citizens of the United States to cause surveys to be made of the harbor of the city of New York and to obtain all needful information with reference to the condition of the harbor, particularly as to whether the navigation thereof is improperly obstructed and whether in reference to the present and probable future commerce of the cities of New York and Brooklyn any further extension of piers or bulkheads into the harbor ought to be allowed and to what extent, and to report to the Legislature from time to time. Thereupon the commission, in the exercise of its duties, did from time to time make reports in which bulkhead and pier lines were recommended around the harbor of New York and especially on the Long Island side thereof between Bushwick and Newtown creeks, in which a bulkhead line was established with authority for the filling in up to such line and a pierhead line outside thereof in the river, to which piers were authorized to be constructed from the bulkhead line. The bulkhead line established by the harbor commissioners in 1857 and the pierhead line established at the same time, was, as we have seen, approved by the Legislature in chapter 224 of the Laws of 1878. Subsequently the pierhead line was extended somewhat further into the river by chapter 628 of the Laws of 1886, to which we have heretofore referred, which lines were subsequently approved by the Secretary of War. Here we find legislative authority for the filling in of lands on the Long

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Island shore under the waters of the river for a considerable distance out to the bulkhead line and for a considerable distance farther for the construction of piers. By the amendment of the Public Lands Law, chapter 208 of the Laws of 1895, section 6 of the act, the Commissioners of the Land Office were given powers to grant lands under water "adjacent to and surrounding Long Island and all that part of the former or present county of West Chester lying on the East River along Long Island Sound," but not beyond any permanent exterior water line established by law, and to the same effect are the provisions of the Consolidated Laws.

Under both the Dongan and Montgomery Patents, the City of New York was given a charter to maintain a municipal government, the jurisdiction of which extended across East river to low water mark on the Long Island shore. In these patents, especially that of Montgomery, the Mayor, aldermen and commonalty of the city government was given in fee certain lands therein described for city purposes and uses, but otherwise the fee to the lands under water although within the territorial limits and jurisdiction of the city, remained undisposed of and upon the organization of the State under its constitution passed to the people thereof.

Again referring to the Dongan Patent to the ancient town of Bushwick, the territory lying between Newtown and Bushwick creeks, whatever may be the construction with reference to the creeks, clearly so far as it is bounded upon the East river, the line ran only to the river at its high water mark and did not convey to the town or the inhabitants thereof the lands between high and low water mark. (*Matter of Mayor, etc. of New York*, 182 N. Y. 361; *Trustees of Brookhaven v. Strong*, 60 N. Y. 56; *Sage v. Mayor* 154 N. Y. 61; *Mayor, etc. of New York v. Hart*, 95 N. Y. 443).

And further in the case of *People v. Schermerhorn*, 19 Barb. 540, 559, it was said by Strong, J., in delivering the opinion of the Court that "Although the limits of the County of New York extend to low water mark on Long Island, the corporation of the city has no title to the lands under the waters adjoining the shores

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of the island. Neither the patents to the city nor the statute dividing the State into counties confer any titles to such lands. The statute confers political jurisdiction upon the county, but not the property of the State held in its sovereign capacity. That remains in the People." It consequently appears to me that the Commissioners of the Land Office did have jurisdiction to make grants of land on the Long Island shore to the abutting owners thereof, not only to the tideway, that between high and low water mark, but also to the lands under the waters of the river although within the territorial limits of the city and county of New York, out to the bulkhead and pierhead lines established by the Legislature.

A further question is raised on behalf of the State with reference to the grant that was made to Charles Cartlidge dated July 23, 1853. That grant as may be recalled, was upon condition that dock or docks be constructed within ten years. In view of the fact that the same question may be raised with reference to other grants, the consideration of the question will be reserved until those cases are reached.

The title to Cartlidge having passed to Godfrey, Gookin and Wakeman, they petitioned the Commissioners for a renewal grant extending out to the new pier line that had been established by the Legislature. The objection on the part of the State is that it does not appear that the grant was ever authorized by the Commissioners; that no resolution of the Board had been adopted to that effect and that there was no proof of the publication of posting of the notices required by the statute. It appears that two grants were issued in each of which it is recited that it was pursuant to a resolution of the Commissioners of the Land Office for the purpose of promoting commerce, etc. One was executed by Reuben E. Fenton as Governor and approved by the Secretary of State on the 18th day of September, 1866. It was as we have seen recorded in the office of the Clerk of Kings county in Liber 743 at page 471 on the 13th day of December, 1866. The other was issued under date of the 3d day of October, 1866, executed by Reuben E. Fenton as Governor and passed the Secretary of State's office on that date. They were identical except in the

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latter the provision of the former "for beneficial enjoyment" was omitted. This grant also recites that it was pursuant to a resolution of the Commissioners of the Land Office. The minutes of the Commissioners on file in the Secretary of State's office show the petition of the Claimants for a renewal of the grant, they having become the owners, with the map attached thereto, and then a memorandum endorsed upon the minutes under the description given, the following: "Land ordered to be granted to Gookin, Godfrey and Wakeman."

While the resolution does not appear to have been written out and we have but brief reference thereto, still, in view of the fact that the Governor has acted thereon with the approval of the Secretary of State and issued the patent with the recital that it was authorized by the resolution of the Board, I incline to the view that it is sufficient, and without now determining the validity of the first patent issued, the last one issued pursuant to the Minutes, which is recorded in the office of the Secretary of State in Book 39 page 189, is valid.

There does not, however, appear any proof of the publication of notices required by the statute of the application to the Commissioners of the Land Office for a grant of land under water. The publication of such a notice is one of the requirements of the statute and in the case of the *People v. Schermerhorn*, supra, such notice was held to be jurisdictional. The only evidence bearing upon the question is the testimony of Hooper, a Deputy in the Secretary of State's office, to the effect that he had made an examination of the files of the office but had been unable to find the proofs of publication of notice as to this application. We thus have presented the question as to whether the failure to find proofs of the publication of notice in the Secretary of State's office invalidates the grant made by the Governor and the Secretary of State pursuant to the minutes of the Land Board to the effect that they had authorized the same. The statute provides that: "All letters patent shall be recorded in a book or books to be kept for that purpose in the office of the Secretary of State and the record thereof in such book or a copy of such record thereof or hereafter recorded shall be received

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in evidence in any court in this State with the same force and effect as the original of such Letters Patent." (Public Lands Law, Sec. 5). There is, however, no statute requiring the proof of the publication of notices to be recorded or otherwise preserved. If, therefore, the proofs of publication should become lost or misplaced by careless clerks in the office and the title to lands granted by the land Board become invalid, it might result in divesting a considerable portion of the owners and occupiers of river frontage properties. Such a condition might result in great hardship to individuals and deprive them of the use of costly improvements constructed by them in good faith. There has been no evidence produced before me showing that the notices were not in fact published in accordance with the requirements of the statute other than that such proof thereof is not found in the office of the Secretary of State. The Land Board is composed of the high State officers and the grant was executed by the Governor and Secretary of State. The presumption is that these officers have discharged their duties properly and in view of the fact that the statute expressly provided for the publication of notices before presenting an application to the Board for a grant, I am of the opinion that the presumption is permissible that they had before them proofs of such publication before undertaking to pass upon the merits thereof. I, therefore, under the circumstances of the case, am unwilling to find as a fact that such notices and the publication thereof were not in fact made.

With reference to the patent granted to Loftis Wood on the 28th day of December, 1864 and that granted to William H. Niven and others February 25, 1886, it is claimed on behalf of the State that there is no proof of the publication of notice on file, but inasmuch as I have considered that question with reference to the patent issued to Godfrey, Gookin and Wakeman, further discussion of the question is unnecessary.

The evidence as I recall it does not specify the precise time that the first filling in of the lands under water adjacent to the uplands commenced. It does, however, appear that the bulkhead upon the lines established by the Harbor Commissioners was constructed and filled in during the years 1889 and 1890 and that

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the piers thereon were constructed during the years 1891 and 1892 and completed in 1893. The question, therefore, as to whether there was a forfeiture of the prior patents to which allusion has been made by reason of a failure to construct and fill in the bulkhead and piers within the time specified in the several patents issued remains to be determined. The language of the patents is in substance that in case the grantees named therein shall not within the time specified apply the premises to the purposes of commerce by the adjacent owner "by erecting a dock or docks thereon and filling the same, then these presents and everything therein contained shall cease, determine and become void." The grants, however, are in the present tense and thereby give to the grantees the right of immediate title and possession. I therefore incline to the view that the condition expressed is in law a condition subsequent, subject to forfeiture upon the election of the State in case of noncompliance by the grantee and that, inasmuch as there was no such election until after the conditions were complied with by the present owner of the uplands in the years above specified, no forfeiture can now be adjudged.

The conclusions reached above render it unnecessary for me to construe the provisions of Chapter 224 of the Laws of 1878 or determine whether it is a public or local bill. Section 3 of the Act does provide that : "The unappropriated lands adjacent to the shores of Newtown creek lying under water within the limits of the lines hereby established are hereby vested in the respective owners of the adjacent property." In view of the fact that I have reached the conclusion that the Claimants' uplands abutted upon the East river instead of Newtown creek, it may be that the provision quoted does not apply to such lands.

Finally, it is contended by the Attorney-General that notwithstanding the patents issued by the Commissioners of the Land Office to the Claimants or their predecessors in title, the State may now appropriate the Claimants' land under water for barge canal purposes without compensation.

The East river flows between Long Island Sound and New York Bay. It is a part of or an arm of the high sea, over which the Congress of the United States by virtue of the commerce clause

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of the constitution has jurisdiction in so far as pertains to navigation and commerce. The river is within the territorial limits of the State of New York which, subject to the paramount powers of Congress as to navigation and commerce, has jurisdiction as well as the title or ownership of the lands under the waters of the river. The rights of the sovereign, whether Crown or State, to land under water in navigable streams and arms of the sea are doubtless two-fold, proprietary and governmental. As proprietor the sovereign may sell or convey to others but as to the power to govern the sovereign holds as trustee for the use of the public under such laws, rules and regulations as may from time to time be adopted which shall be deemed to best serve the interest of commerce and the State. These powers may be transferred by the sovereign to local subordinate governments which have been established, constituting such governments the trustees of the public and the guardians of the rights and privileges of the people. The King of England, therefore, during our Colonial period had the power to grant a charter to the mayor, aldermen and commonalty of the city of New York constituting it a body corporate and politic with powers of local government and to convey to it the lands under water surrounding Manhattan Island on which the city is located. This power the King exercised through his local governors who from time to time thereafter enlarged the powers and jurisdiction of the city. While the King had the power to convey the tideway of the shores of the high seas and navigable rivers, he will not be presumed to have done so by merely bounding the conveyance by the sea or the river. Such conveyance will carry title only to the high water mark. Other words must be employed in the conveyance which would clearly indicate his purpose and intent to convey the land under water in order to pass the title thereto. (*Matter of Mayor, etc., of New York* 182 N. Y. 361; *Trustees of Brookhaven v. Strong*, 60 N. Y. 56; *Sage v. Mayor, etc.*, 154 N. Y. 61; *Matter of Mayor, etc., v. Hart*, 95 N. Y. 443.)

In this State we have no king. The power of the sovereign is vested in the people, who, through their representatives selected by themselves, the Governor and the members of the Legislature,

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enact such laws, rules and regulations from time to time as they shall deem to be for the best interest of commerce and the State. They not only possess the powers of the sovereign, both proprietary and governmental, but also exercise the powers of Parliament. In this way the Public Lands Law was adopted, constituting the Board of Commissioners of the Land Office and empowering such a board in its discretion to grant lands under the waters of the sea, the arms thereof and navigable rivers to the adjacent owners. This power of the board, however, must be exercised subject as we have seen, to the powers of Congress.

The claimants herein are the owners of uplands bounded upon the river. As such owners they were entitled to all of the riparian rights that are accorded to adjacent owners under the common law. They have the right of access not only to the river itself but to the freeway thereof, with the right to receive and ship goods over the same. As such adjacent owners they were within the provisions of the Public Lands Law persons to whom the Commissioners were given the power to grant lands under the waters of the river for the purposes mentioned in the act. It was under these circumstances that the patents in question were issued and it was in reliance upon the validity thereof that the claimants have constructed a bulkhead and piers and filled the same in for the purposes of commerce. Under an enactment by Congress, the creation of any obstruction not authorized by Congress to the navigable capacity in any of the waters of the United States is prohibited and it was made unlawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty or other structure in any port, roadstead, haven, harbor, canal, navigable river or other water of the United States outside of established harbor lines or where no harbor lines have been established, except upon plans recommended by the chief engineers and authorized by the Secretary of War. In this case, as we have seen, bulkhead lines were established by the Harbor Commissioners and pierhead lines were established by act of the Legislature and were approved by the Secretary of War, and all of the patents issued by the Commissioners of the Land Office to the claimants were within the lines

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so established and approved. It is quite true that the East river with the arms of the sea and navigable rivers are regarded as public highways which are to be kept open for public use in the advancement of commerce and that as such public highways the State or the general government may require or compel the removal of obstructions and that such obstructions may be removed without compensation to the owners; but bulkheads and piers are important aids and necessary in the promotion of commerce and for that reason lines of harbors were required to be established and so long as they are maintained within the lines authorized, they are not deemed to be nuisances or improper obstructions to navigation. The Legislature has now passed an act authorizing the taking of lands for Barge canal terminals. It does not by enactment specify the particular lots which should be taken, but has left that to the determination of the Canal Board and the Engineer. The people have authorized the Legislature to make an appropriation for the payment of the value of such terminals. The people have also, through their Land Commissioners, authorized the patents under which the claimants hold title to the lands now appropriated by the State, and manifestly they are now entitled to compensation therefor.

DAMAGES

Upon the hearing I have allowed the greatest latitude claimed by the parties in submitting evidence upon the question of value, reserving, however, the right to disregard such as I should in the final disposition of the case deem speculative or improper. The opinions of the expert witnesses vary in nearly a million and a half dollars, and, owing to this variance, I have found it difficult to reach a conclusion as to the amount that should be in justice awarded.

The rule, as I understand it, is that the owner is not limited in compensation to the use which he makes or has made of his property, but that he is entitled to receive its greatest value for any purposes for which it is naturally adapted. He is, however, limited to its market value, and in determining such value he may show its location, its surroundings and adaptability, and if it

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has been rented he may show the fact, although the rent received is not to be deemed as controlling upon the question of value, but as some evidence bearing thereon.

In determining the value of land appropriated for public purposes, the same conditions are to be regarded as in the sale of property to private parties. The inquiry in such cases must be what is the property worth in the market viewed not merely with reference to the uses to which it is plainly adapted, but what it is worth from its availability for valuable uses. The property is not to be deemed worthless because the owner allows it to go to waste or to be regarded as valueless because he is unable to put it to any use. Others may be able to use it and make it serve the necessities or conveniences of life. *Matter of Simmons*, 130 App. Div. 356; *Matter of the City of New York*, 198 N. Y. 34; *Turner v. State of New York*, 67 App. Div. 393; *In re Dept. of Public Works*, 53 Hun, 280; *Matter of Gilroy*, 26 App. Div. 314; *Matter of the City of New York*, 193 N. Y. 117; *Daly v. Smith*, 18 App. Div. 197; *Boome Co. v. Patterson*, 98 U. S. 403.

As we have seen, the lands appropriated are upon East river, south of the junction of Newtown creek with the river. They are surrounded by the city, well built up and devoted to great commercial and industrial enterprises. The lands are doubtless available for both the distribution and collection of merchandise and freight which was designed for use within the city or for shipment to the west through the Barge canal. They also may be available for many other uses including railroad and industrial terminals although it has no railroad connection and cannot well have without the expenditure of a large sum of money. But it could be used for such purposes when the cars are transported upon barges for loading and unloading the merchandise which they may contain or which may be designed to be transported through them.

Some reference has been made to the Gowanus Bay terminal, but I do not regard that terminal as establishing a guide which should absolutely control in the determination of the value of this terminal. I am quite familiar with that terminal and it doubtless is well adapted for the transshipment of freight upon

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coast or ocean-going vessels, but it is not so convenient for the distribution of freight in the city. It is located a considerable distance down the bay and beyond that portion of the city which is fully built up and devoted to business industries, and consequently the market value of the lands may differ largely from that on the river at Newtown creek.

Upon the trial there was introduced in evidence on behalf of the State, five applications made by Lowell M. Palmer for himself and the estate of Henry U. Palmer, deceased, to the commissioner of taxes and assessments for reduction of the assessment made for the year 1912 of the property owned by the claimants, of which the parcel appropriated for Barge canal terminal was a part, to the amount for which it was assessed for the year 1911. It appears from the statement made upon such applications that the assessment for the entire tract for the year 1911 was \$1,065,500, and that for the year 1912 it had been raised to \$1,096,500. Separate assessments having been made for each block of land included in the entire parcel, five separate applications were necessary to be made, one for each block, in which substantially the same representations were made in each case.

It is now contended that these representations should be regarded as admissions of claimants that the land owned by them, from which the appropriation was made, was worth but the sum of \$1,065,500. It must be conceded that admissions of parties is evidence against them and that ordinarily they might be held to such admissions, but I hesitate with reference to adopting such a rule in this case in view of the fact that only about four-tenths of the property of the claimants was appropriated by the State and the testimony of the witnesses on behalf of the State concede such part thereof to be worth in the neighborhood of \$600,000. Such a rule, therefore, would result in great hardship to the claimants. Their action may be subject to criticism. It may be an effort to dodge the payment of taxes which they should in justice bear in the support of the government, but it must be borne in mind that mankind is afflicted with natures that are oftentimes weak, out of which grow temptations that are in many instances too strong to be resisted. Especially is this

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true with many when it comes to the determination of the amount of taxes that they should pay. Of course, it is very wrong to undertake to avoid the payment of a just proportion of the taxes, but the weakness of humanity in this regard has become so general that possibly we should limit the throwing of stones to him who is without sin.

I have carefully examined and considered the testimony of the expert witnesses based upon the sales of property in the vicinity of the lands appropriated. I have considered the testimony with reference to the rentals paid therefor. I have considered the quantity of uplands and the lands filled in out to the bulkhead line, the water frontage between the bulkhead and pier line and its availability for commercial enterprises, and I have also made a careful personal examination and inspection of the premises and, enlightened by the testimony given, have reached the conclusion that the fair market value of the lands appropriated, for commercial purposes, not including piers or buildings, is \$1.90 per square foot. The total number of square feet appropriated, counting the fractional part of a foot above one-half as one, in the appropriated area is 402,810 square feet at \$1.90 per square foot, amounts to \$765,339.

Deduct therefrom 5,664 square feet at \$1.90 per square foot, the area appropriated in which the claimants have no title, amounting to \$10,762, leaves a balance of \$754,577.

I find the concrete and other buildings upon the premises to be worth \$20,423; the piers appropriated, \$25,000; which amounts added to the above balance makes \$800,000, which I find to be the value of the property appropriated.

One question remains to be determined, and that is the claim for consequential damages. Upon this question the claimants' witnesses are at variance with those produced on behalf of the State. The entire tract owned by the claimants consisted of uplands and lands filled in, 645,850 square feet, and total of lands under water, 401,250 square feet, making a total of 1,047,100 square feet. Of this amount there remains, after deducting the lands appropriated, 644,290 square feet. The parcel upon the south has a river frontage of about 455 feet extend-

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ing back upon the uplands, in the form of a parallelogram and is well adapted for almost any commercial purpose that has been suggested, including a railroad terminal by which cars may be transported by barge or for industrial commercial enterprises. I entertain the view that this portion of the property remaining to the claimants is not impaired in value by reason of the appropriation that has been made. Upon the northeast of the lands appropriated there remains a parcel about 250 feet in breadth abutting upon the river and running back to a frame shed or freight house, 200 feet in breadth by 300 feet in length, which used in connection with the freight house is well adapted for commercial purposes or industries, and I do not regard such parcel damaged by the appropriation. But beyond the lumber shed there remains uplands bounded on the east by Franklin street, the south by Eagle street and west by West street, which in a measure is cut off from water frontage and may by reason thereof be somewhat impaired in value.

There is still another element of damage, and that is: the northeastern line of the lands appropriated runs diagonally into the frame shed and then upon another angle out again, taking from the shed a V-shaped parcel which extends nearly across the width of it, having a depth in the vicinity of eighty feet at the point, which materially injures the building and necessitates the cutting off and the building up of the western end thereof. The expert witnesses differ to some extent with reference to the damage done to the building by the taking of the parcel included therein, but the most of them have agreed that it is about the sum of \$5,000. I am, therefore, of the opinion that I should allow damages for the portion not taken, \$20,000, and for injury to the frame lumber shed, \$5,000, making a total of \$25,000, which, added to the value of that taken, amounts to \$825,000.*

* Affirmed 174 App. Div. 933 (dissenting opinion by Kellogg, P. J., concurred in by Woodward, J.); affirmed 220 N. Y. 565, no opinion.

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LINCOLN SPRING COMPANY v. STATE OF NEW YORK

Claim No. 688-A.

Claim for Appropriation of Land for the State Reservation for Saratoga Springs

The profits of a business are a guide, valuable but not conclusive, in determining the value of the property and plant which produced them.

While certainty is the general rule in estimating values, probability must of necessity sometimes be taken into consideration. When, owing to inherent and insurmountable conditions, the exact facts upon which value depends cannot be proved, reasonable probabilities cannot be disregarded, for the owner is entitled to rely on anything that enters into the market value. Market value means the fair value of the property as between one who wants to purchase and one who wants to sell. A reasonable probability that a fact exists, although it cannot be proved, which, if it exists, would add largely to the value of certain property, adds to the market value of that property, even if the probability is not strong enough to warrant a finding that the fact does exist.

The owner of land taken in condemnation cannot recover a large price for his property owing to the use which the State intends to make of similar lands near by, taken or purchased at about the same time for the same purpose. Such a rule of damages would penalize government in a progressive ratio for making a public improvement by increasing the price of the land needed as each parcel was acquired for public use.

(Opinion filed October 22, 1915.)

Edgar T. Brackett, Hiram C. Todd and Benjamin P. Wheat,
for claimant.

Charles C. Lester and John H. Burke, for State.

This claim was filed on the 14th of November, 1912, to recover compensation for the permanent appropriation by the State of New York of certain lands, buildings and machinery of the Lincoln Spring Company situate in the village of Saratoga Springs, under a statute of the State of New York entitled "An act to authorize the selection, location and appropriation of certain lands in the town of Saratoga Springs for a state reservation, and to preserve the natural mineral springs therein located, and making an appropriation therefor, and authorizing an issue of bonds to pay such appropriation," which act took effect on the

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29th of May, 1909, and is known as chapter 569 of the laws of that year.

The particulars of the claim are as follows:

Value of twenty-four acres of land, including gas and mineral rights therein	\$500,000
Buildings	26,000
Machinery	10,000
Two gasometers	14,000
Pumping system	4,000
Steam, water and gas circulating system in fields and buildings	5,000
Total	<u>\$559,000</u>

The claim was tried before Irving G. Vann as official referee at the village of Saratoga Springs and in the city of Albany on various days between July 1, 1914, and June 26, 1915, when it was finally submitted for decision. Before the trial commenced the premises were inspected by the referee in the presence of counsel for either side.

IRVING G. VANN, Referee.—On the 12th of April, 1912, the Lincoln Spring Company, the claimant herein, owned twenty-four and sixty-two one-hundredths acres of land in the village of Saratoga Springs, with a plant thereon constructed to collect and compress carbonic acid gas taken from wells drilled at different points on the premises. On the day last named the Commissioners of the State Reservation at Saratoga Springs caused a map of said property, duly made by the State Engineer, to be filed in the office of the Secretary of State and in the office of the clerk of Saratoga county, and thereupon, through the power of eminent domain, thus exercised, the property in question became the property of the State of New York and a part of the State Reservation at Saratoga Springs. Laws of 1909, chap. 569, § 2. On the 14th of November, 1912, the Lincoln Spring Company, as owner of the property so appropriated, filed a notice of its

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claim for compensation with the Board of Claims, and upon consent of the Attorney-General and the attorney for the claimant, an order was made by the Board of Claims referring "the said proceeding and the claim on which the same is founded to" the undersigned "to hear and determine the issues and questions arising therein."

The surface of the land in question is practically flat and substantially rectangular in form, being about 664 feet in width on South Broadway in the village of Saratoga Springs, and 1,643.20 feet in depth therefrom. But for the mineral water and gas beneath the surface the land would be valuable only for agriculture, building lots and possibly for manufacturing purposes. At the date of appropriation the claimant was conducting the business of bottling and selling mineral waters and compressing into liquid form and selling carbonic acid gas taken from wells on the premises. There were twenty-six wells in all, five known as deep wells, penetrating the rock and varying in depth from 226 to 426 feet, and twenty-one shallow wells, not penetrating the rock and varying in depth from 88 to 114 feet. The shallow wells are known as dry-gas wells, which produce gas with a small quantity of surface water, while the deep wells produce mineral water freely with gas commingled. The five deep wells were not being pumped for gas and but twelve of the shallow wells were producing gas when the property was taken by the State. The wells, about six inches in diameter, were bored and piped by machinery and in order to facilitate production a smaller pipe from one to two inches in diameter was placed inside of the larger and the water or gas so confined by sand bags as to come to the surface through the smaller pipe only.

The first well on the premises was drilled in August, 1893, and after passing through some sixty feet of sand, including much quicksand, a layer of clay twenty-five feet deep was reached, which was impervious to water or gas. When this was penetrated by the drill gas came forth with a great roar and with such power as to lift the drill to some extent and to throw up sand and stones, some of which weighed several pounds each, to a height of many feet. With some difficulty the pipe was capped and a gauge put

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on which showed a pressure of thirty-five pounds. The gas was carried in pipes to a building, thirty by forty feet in size, constructed for the purpose, where it was condensed by heavy hydraulic pressure into liquid form and forced into steel tubes, those first in use containing twenty pounds and those used later fifty pounds each. The liquified gas, when so inclosed in tubes, is widely used to ærate beer, soft drinks and mineral waters, and it found a ready sale on the market at a good profit to the proprietor of the spring. The gas was of a high grade and on account of its purity brought a larger price than manufactured gas. As time passed the pressure of gas in the well became less, owing to sand in the bottom of the pipe, but after this was removed by sand buckets the pressure was as great as before, and stones were produced upon the trial nearly six inches in diameter, eight or nine inches in length, and weighing from one to nine pounds, which were said to have been thrown up from this well high in the air when it was first cleaned out. Thereafter at intervals the sand clogged the flow but was removed in the same way and with the same result, except that stones were no longer thrown forth. The claimant insists that this great pressure shows that its land is wholly or partly on the apex or dome of the great reservoir of gas supposed to underlie the Saratoga district.

In the fall of 1894 a second well was drilled only five feet from the first and a few months later a third, 75 feet away, both of the same depth as the first and producing gas and becoming clogged at intervals in the same way. In 1896 the second well was extended by drilling until it was 426 feet in depth, about 150 feet passing through sand, clay and soil, and 276 feet through rock. At this depth, or a little less, mineral water was struck, and when a second pipe an inch and a quarter in diameter was placed inside of the first and the flow confined thereto the pressure of gas forced the water out of the pipe to a distance of over 40 feet in the air. When the pipe was covered with a cap the pressure forced the water into a gasometer, which collected the gas so that it could be compressed, while the water was allowed to go to waste. This well was named the Lincoln Spring, from which the claimant took its corporate name. The water proved a useful

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and popular mineral water, which was bottled and sold on the market. Expert chemists, after a scientific analysis, classify it as a saline-alkali water with a large quantity of bicarbonate of magnesium and carbonic acid gas and an unusual quantity of chloride of potassium and sodium iodide, when compared with other waters in the village of Saratoga Springs. It is still held in high esteem by the medical profession and by the public as a remedy for various ailments and especially those affecting the kidneys. No gas was used from this well after the business of bottling was commenced. The water was not flowing when the State took the property, but was pumped to the surface from a depth of 133 feet and the water only was used.

In the course of time other wells were sunk on the property with varying degrees of success in the production of gas and mineral water. The gas was used to some extent, but no water to speak of was put on the market, except from the Lincoln and a well known as the Pyerian. For four years prior to 1899 the Lincoln and the Pyerian, and a third well called the Lohnas, for two years before, produced mineral water without pumping. They were all deep wells and penetrated the rock. Owing to corrosion the wells required retubing once in every two or three years, and some wells were never effective. The pressure from the dry gas wells ran from ten to twenty-four pounds when they were first drilled. Sometimes when a well became clogged the pipe was pulled out and another well sunk a short distance away which produced gas to about the same extent as the one abandoned. Certain wells on the property of an adjoining company, very near some wells of the claimant, were pumped so energetically as to seriously affect the latter, and they were abandoned. Some wells were strong with gas when drilled but, owing to various causes, they finally ceased to produce gas in paying quantities and were not in use when the property was taken by the State. The dry gas wells did not penetrate the rock nor produce mineral water and but little surface water, but they furnished all the gas produced by the claimant, which, when the property was taken, had 3,200 tubes holding fifty pounds and 5,800 holding twenty pounds each. It did not, however, fill all the tubes from its own gas, as between Janu-

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ary 1, 1912, and May 1, 1912, it was compelled to buy from third parties \$4,500 worth of gas in order to supply its customers. During this period it wasted some gas in certain experiments to draw gas out of the wells by suction, but the evidence tends to show that the supply of gas from its own wells had diminished when the State took the property.

By chapter 429 of the Laws of 1908 the Legislature forbade accelerating or increasing the flow of percolating waters or natural carbonic acid gas from wells bored into the rock by pumping or any artificial contrivance whatever when the object of so doing was to extract and collect the carbonic acid gas for the purpose of marketing the same. The statute took effect on the 20th of May, 1908, but owing to protracted litigation it was not enforced until after it had been sustained by the Court of Appeals as a valid exercise of legislative power with respect to the provision above mentioned. *Hathorn v. Natural Carbonic Gas Co.*, 194 N. Y. 326; *People v. New York Carbonic Acid Gas Co.*, 196 id. 431. The act was also sustained to the same extent by the Supreme Court of the United States. *Lindsey v. Natural Carbonic Gas Company*, 220 U. S. 61. For a year or more before the appropriation the claimant had been compelled through the enforcement of this statute to cease pumping its deep wells. That source of supply of gas was thus permanently cut off, leaving the shallow dry wells as its sole reliance. The statute does not prohibit the pumping of shallow wells, nor the pumping of deep wells for the purpose of obtaining mineral water only without exploiting the gas.

The land in question has for years been assessed at a valuation of \$14,500, but such valuations seldom indicate the real value, and in Saratoga Springs they seem especially unreliable. Both parties concede that the sum named is much less than the actual value. According to the undisputed evidence the value of the buildings, fixtures, machinery and other improvements which were part of the real estate, as distinguished from the land itself, was \$46,590.83 at the date of appropriation.

For a number of years prior to acquisition by the State the mineral water business declined and it was never very profitable.

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The gas business, however, returned a good profit, although the Lincoln Spring Company never declared but one dividend, which was in 1904 and at the rate of 3 per cent on the capital stock of \$150,000. For many years past all the shares of stock, 1,500 in number, have been owned by Mr. Deyoe Lohnas and his family.

Official reports were made each year to the Comptroller, pursuant to the requirements of law, for the purpose of taxation, in behalf of the company through Deyoe Lohnas, its president and treasurer, and verified by him. In a report so verified on the 11th of November, 1903, Mr. Lohnas stated that the Lincoln Spring Company began business in the month of June, 1894; that the value of the real estate and of the interest or interests in the real property in New York State was \$70,000, and that it was situated at Saratoga Springs, New York; that the total authorized capital of the company was \$150,000, of the par value of \$100 per share; that the amount paid into the treasury on each share was \$53.84; that the amount of capital paid in cash or property was \$80,750; and that no dividend had been declared. The report for 1904, verified by Mr. Lohnas November 15, 1904, was the same as that of the preceding year, except that a dividend of 3 per cent was declared, amounting to \$4,500.

The report for the year 1905, verified by Mr. Lohnas November 17, 1905, was the same in substance, except that no dividend was declared and there was an independent affidavit attached, sworn to by Mr. Lohnas on the same day, which stated that the net value of the property of the company over and above its liabilities was \$150,000, and that of that amount "the total amount invested in and employed in that part of the business, used in the bottling and selling of mineral water, including the spring plant and real estate and other property so used, is 16 $\frac{2}{3}$ per cent, or \$25,000; that the actual amount of said capital invested in and used in compressing and selling natural carbonic acid gas, the same being a process of manufacture, is 83 $\frac{1}{3}$ per cent, or \$125,000."

The report of 1906, verified by Mr. Lohnas on the fifteenth of November in that year, states, among other things, as follows:

"Average value of stock in trade carried in the State of New York during the year ending October 31, 1906, \$500.

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"Average monthly bank balance employed in the State of New York during the year ending October 31, 1906, \$1,000.

"Average value of bills and accounts receivable in the State of New York during the year ending October 31, 1906, \$3,000.

"Average value of personal property, including bonds, loans on call and other financial securities, employed in the State of New York other than heretofore mentioned during the year ending October 31, 1906, \$12,000.

"Capital invested in real estate located in the State of New York during the year ending October 31, 1906, \$147,500.

"Total assets above enumerated located in the State of New York during the year ending October 31, 1906, \$164,000.

"Average value of bills and accounts receivable outside the State of New York during the year ending October 31, 1906, \$5,000.

"Average value of personal property, including bonds, loans on call and other financial securities, employed outside the State of New York other than heretofore mentioned during the year ending October 31, 1906, \$30,000.

"Liabilities: bonds, \$40,000; bills payable, \$40,000; accounts payable, \$1,500; total liabilities, \$81,500.

"From the above it appears that after deducting the liabilities from the assets the net capital of said company is \$112,500. From the reports and affidavits on file in the State Comptroller's office for the year ending October 31, 1906, it will be found that 83 $\frac{1}{3}$ per cent of the capital stock of the company was then employed in manufacturing. The same proportion of capital is still thus employed.

"The undersigned, being the president and treasurer of the above company, estimates and appraises the capital stock of said company as follows: 1,500 shares at \$75 per share, amounting in the whole to \$112,500."

This report was sworn to by Mr. Lohnas as "just, true and correct," and he further stated in his affidavit that, according to his best knowledge and belief, he had "appraised the capital stock of the company as provided by statute at not less than the average

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price at which it sold and not less than the difference between its assets and liabilities exclusive of capital stock.”

In an independent affidavit attached to the report sworn to on the 26th of December, 1906, Mr. Lohnas stated, among other things, “that the total assets of said company for the year ending October 31, 1906, were \$194,000; that the total liabilities of said company for the year ending October 31, 1906, were \$81,500.”

The reports for 1907 to 1911, inclusive, duly verified by Mr. Lohnas, are substantially, if not literally, the same as the report of 1906, except that in 1908 the liabilities of the company are stated at \$81,600, in 1909 at \$86,300, in 1910 at \$75,500 and in 1911 at \$64,500.

In a report verified by Mr. Lohnas November 12, 1912, the capital stock is put at \$150,000; amount paid into the treasury on each share, \$53.84; amount of capital stock issued, \$150,000; value of stock, 1,500 shares at \$100 a share, amounting to \$150,000; bills payable, \$25,400; bonds secured by mortgage, \$39,000; making the total liabilities \$64,400. In his affidavit attached Mr. Lohnas states that the foregoing report is just, true and correct, and that he has, according to his best knowledge and belief, appraised the capital stock of the company as provided by statute at not less than the average price at which it sold and not less than the difference between the assets and liabilities exclusive of the capital stock. There is also the statement that “Since about May 1st, 1912, this company has done no business except to collect accounts owing it and generally closing up its affairs.”

In all the reports made after 1904 it is stated that no dividend was ever declared except in that year.

While it should be borne in mind that the estimates of value made by the owner for the purpose of taxation are naturally conservative, still it must also be borne in mind that Mr. Lohnas knew more about the property and business than any one else and that he is a man of good judgment and, as I think, intended to speak the truth in making said reports. He had both the “sagacity and ability” which are recognized as large elements

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in determining the profits of a business, and the profits of a business are a guide, valuable but not conclusive, in determining the value of the property and plant which produced them. I regard his opinion as stated under oath, year after year, the latest having been made after the State took the property, with complete knowledge of all the facts that could then be known, as important.

The opinions of experts as to the value of the property vary almost as much as the opinions of other experts as to the permanency of the source of supply of gas, a very important feature. Both classes of opinions are of some aid, but are not of controlling importance, for obvious reasons. It is conceded that there is no way of knowing whether gas is still forming or not. Owing to inherent and unavoidable conditions it is impossible to prove how, or where, or to what extent the mineral waters holding the gas are generated, and I am unable to find, affirmatively, as a fact, that the supply of gas is, or that it is not, practically inexhaustible. All I can say is that the evidence does not satisfy me that the supply is without practical limit. That, however, under the peculiar circumstances of this case, cannot exclude the subject from consideration. While certainty is the general rule in estimating values, probability must of necessity sometimes be taken into consideration. Thus in estimating damages for personal injuries resulting in death, probabilities frequently furnish the main guide, for it cannot be proved how long the decedent would have lived, or how much he would have earned, but for the accident. *Thomas v. Utica & Black River Railroad Company*, 34 Hun, 626; *affd.*, 98 N. Y. 649; *Arnold v. State*, 163 App. Div. 253, 265. So, undeveloped oil land situated near successful oil wells commands a higher price owing to the probability that oil may exist therein, although none is known to. There is a reasonable probability that the supply of gas on the premises in question is practically inexhaustible, and hence, under the command of the statute that the owner may recover "the fair value of lands, rights, easements or interests," I am bound to take that probability into account in estimating the value of the property condemned. Laws of 1909, chap. 252, § 3, as amd. by Laws of 1914, chap. 252, § 1. When, owing to inherent and insurmountable conditions, the exact facts

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upon which value depends cannot be proved, reasonable probabilities cannot be disregarded, for the owner is entitled to rely on anything that enters into the market value. Market value means the fair value of the property as between one who wants to purchase and one who wants to sell. The chance of a permanent supply, when supported by certain known facts making it reasonable though by no means certain, becomes of necessity an element entering into the market value, because a prudent man would pay more for the property under such circumstances. A reasonable probability that a fact exists, although it cannot be proved, which, if it exists, would add largely to the value of certain property, adds to the market value of that property, even if the probability is not strong enough to warrant a finding that the fact does exist. Accordingly I have taken the probability into account in making my estimate of the amount that the claimant is entitled to recover, but I have not, consciously, taken into account the price paid by the State, voluntarily, for similar lands used for similar purposes.

According to the books of the claimant the volume of the gas business for the years 1907 to 1911, inclusive, as indicated by the sales made, appears in the following table:

1907	\$35,799 52
1908	34,750 51
1909	36,522 11
1910	42,668 25
1911	41,087 09
<hr/>	
Total	\$190,827 48
<hr/>	
Average	\$38,165 49
<hr/>	

The amount of sales during the first four months of 1912, when measured by the production during that period, must have been much less in proportion to the average for the five-year period.

According to the books of the claimant the net profits of its gas and water business during the years 1907 to 1911, inclusive, were as follows;

 Lincoln Spring Co. v. State of New York.

1907	\$15,299 78
1908	12,871 84
1909	11,843 08
1910	15,795 72
1911	10,824 92
<hr/>	
Total	\$66,635 34
<hr/>	
Yearly average	\$13,327 06
<hr/> <hr/>	

To these sums the claimant insists certain additions should be made for items which were improperly deducted in estimating the profits, to an extent that would increase the yearly average to \$21,887.03. The State insists that when interest on necessary working capital, a proper allowance for taxes, the product of the deep wells and various expenses are deducted, the correct estimate of the annual gain as a guide for the future would not exceed \$8,618.11. The truth lies somewhere between the two estimates, but nearer the smaller than the larger.

For some reason the yield of gas from the claimant's land ran down during the first four months of 1912 as compared with the corresponding period in 1911 and previous years, although efforts were made to keep it up by sinking new wells and by pumping. Thus the gas product for January, February and March, and the first thirteen days of April, as expressed in twenty-pound tubes, was as follows: January, 179; February, 525; March, 1,243; April to April 13th, 469; or, taking 1,082 tubes for the entire month of April, there would have been 3,027 for four months as against 11,445 tubes for the corresponding period of 1911. The dry gas wells for years have not expelled gas with the pressure or to the extent of former times and pumping has been resorted to to raise the water, which was not mineral but from the surface, and separate the gas from it. Gas need not be pumped, for, being lighter than air, it rises spontaneously, but when water and gas are commingled pumps are used. The shallow wells, however, produce but little water. Pumping them is

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difficult and the expense of pumping enough water to supply gas in paying quantities is a matter of importance in conducting the business. When the first wells were drilled on the premises the force of the gas threw stones many feet into the air, gas was abundant and the expense of collecting it was slight, but for years this has not been the case. During the fall of 1911 and the spring of 1912, the claimant drilled new shallow wells and was still engaged in that work at the date of appropriation, but not all were in use for lack of time to make connections. While the new wells produced gas, it was no longer at the pressure shown by the tremendous force exerted when the earlier wells were put down. These and other circumstances are claimed by the State, with some reason, to show a depletion of the source of supply of gas. Under the management of the Commission there is now an abundant supply of mineral water with all its old qualities and strength unimpaired throughout the entire district of Saratoga. The wonderful springs with their healing waters, which were the pride of the State and the admiration of the world, are restored to their old supremacy.

The claimant insists that only a part of its land had been developed when it was taken by the State and that if wells had been sunk at convenient intervals all over the tract so as to develop its full capacity to produce gas, the actual product would have been multiplied two or three times. It was on this hypothesis in part that certain experts placed the value of the entire tract at between \$500,000 and \$600,000. During the fall of 1911 and the spring of 1912 new wells were drilled, chiefly on what was termed the undeveloped part of the property, and when their product, the wide area of pumping influence, and the pockets, interstices and domes holding the gas are considered, the tract must be regarded as substantially developed so far as the production of gas is concerned. The distance from which pumped wells draw water, as shown by actual experiments made by the State, is much farther than the utmost limits of the claimant's property.

It may be that the method of conservation adopted by the State will increase the supply of gas from shallow wells, but such increase, in my judgment, cannot be considered as a property right

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**MARY E. HINCKLEY AND S. HELEN HINCKLEY, Claimants v.
STATE OF NEW YORK
Claims No 484-A, 2538-A**

Claim for the Appropriation of Land for the Hinckley Reservoir

The filing of a map, description and certificate of property to be appropriated, and the service thereof on one or more claimants as tenants in common but not upon all, effects a tentative appropriation, which becomes complete by service on the others at a later date, but by operation of law, the later service relates back to the earlier and the appropriation is regarded as having been made at that time. The service, whenever made, is part of one transaction and service on a single tenant in common paralyzes the action of all, for the property can not be improved except at the owner's risk or sold except at the owner's sacrifice. It would not be equitable for the State to claim that it did not take the property until the last service was made, when the delay of years in completing service is wholly its own fault and it has certified on the map filed at the initiation of the proceeding that the property is necessary for a public improvement, and that it has been permanently appropriated therefor, which involves and finally results in the acquisition of every interest in the land, especially where the property is at once entered upon and taken possession of by the State and the construction of a huge dam for a reservoir is begun thereon.

A conveyance of land bounded by a non-navigable stream carries title to the center thereof unless the parties restrict their grant to the shore line in very plain and express words.

Where confusion exists as to the meaning of words used in the description contained in a grant which requires construction, it is usually resolved against the grantor, who is responsible therefor, as the words used are his own. This is especially so when it relates to a narrow strip, such as half of a street or stream much more valuable to the grantee than to the grantor, as the parties are supposed to have so dealt with the property as to bring out its greatest value.

As to the damages recoverable, *Held* that the claimants are entitled to recover the market value of the property appropriated estimated according to the condition of the title at the date of appropriation, as well as the damages caused to the remainder of their property not appropriated. Hence a flowage and booming easement granted by an early deed from the original proprietors of the land and an easement in the public for highway purposes are to be taken into account.

(Opinion filed December 30, 1915).

Claim No. 484-A, verified July 18, 1912, and Claim No. 2538-A, verified June 16, 1915, are substantially identical in form, are both for the same amount and were consolidated by order of the Court of Claims on the 14th of August, 1915, and now constitute one claim and will be referred to as such.

The claim is for the permanent appropriation by the State of

Lincoln Spring Co. v. State of New York.

of the claimant for which it is entitled to recover compensation in this action. The State has the right to change its methods and policy. The Legislature may even authorize the sale of gas, as an incidental aid to conservation in the effort to make the Reservation self-supporting, or possibly a source of income to the State. The claimant cannot recover compensation for a right which belongs to the State, even if, through forbearance by the State to take advantage of the right, an incidental benefit might come to the property of the claimant. Moreover the owner of land taken in condemnation cannot recover a larger price for his property owing to the use which the State intends to make of similar lands nearby, taken or purchased at about the same time for the same purpose. Such a rule of damages would penalize government in a progressive ratio for making a public improvement by increasing the price of the land needed as each parcel was acquired for public use.

I have found it a matter of great and peculiar difficulty to estimate from the evidence the value of the claimant's property taken by the State and I fully realize that it is impossible to make an appraisal that will even approximately satisfy the parties to the controversy. I have tried to state the most of the leading facts but have not given reasons to any extent for the conclusion reached, as the discussion of a question of fact is seldom profitable, and the discussion of such a peculiar question of fact as is here involved would be almost interminable.

After careful study of the case, I announce as my conclusion that the claimant is entitled to judgment against the State for the sum of \$176,590.83, with interest thereon from the date of the appropriation, being the market value of all the property of the Lincoln Spring Company appropriated by the State on or about the 12th of April, 1912. I have signed findings accordingly.

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MARY E. HINCKLEY AND S. HELEN HINCKLEY, Claimants v.
STATE OF NEW YORK

Claims No 484-A, 2538-A

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A conveyance of land bounded by a non-navigable stream carries title to the center thereof unless the parties restrict their grant to the shore line in very plain and express words.

Where confusion exists as to the meaning of words used in the description contained in a grant which requires construction, it is usually resolved against the grantor, who is responsible therefor, as the words used are his own. This is especially so when it relates to a narrow strip, such as half of a street or stream much more valuable to the grantee than to the grantor, as the parties are supposed to have so dealt with the property as to bring out its greatest value.

As to the damages recoverable, *Held* that the claimants are entitled to recover the market value of the property appropriated estimated according to the condition of the title at the date of appropriation, as well as the damages caused to the remainder of their property not appropriated. Hence a flowage and booming easement granted by an early deed from the original proprietors of the land and an easement in the public for highway purposes are to be taken into account.

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The claim is for the permanent appropriation by the State of

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certain lands, with the buildings thereon, lying on West Canada Creek, in the town of Russia and County of Herkimer, comprising the following parcels:

Parcel No. 1, Map No. 214, 8.92 acres
 Parcel No. 2, Map No. 278, 90.28 acres
 Parcel No. 3, Map No. 3005, .497 acres
 Parcel No. 4, Map No. 4055, .248 acres

The maps, descriptions and a certificate that the lands mapped and described had been permanently appropriated for the use of the canals of the State, were served as follows: Parcel No. 1, on Caroline H. Stanton, December 4, 1905, and on Mary E. Hinckley and S. Helen Hinckley, January 19, 1912; Parcel No. 2, on Caroline H. Stanton, June 21, 1906, and on Mary E. Hinckley and S. Helen Hinckley, January 19, 1912; Parcel No. 3, on all three owners March 10, 1911, and Parcel No. 4, on all three June 6, 1912.

The particulars of the claim are as follows:

99.945 acres of land with the buildings and structures thereon appropriated.....	\$165,000
Damages to the remaining lands and buildings thereon	20,000
<hr/> Total	<hr/> \$185,000 <hr/>

The issue was tried before Irving G. Vann as Official Referee on the 9th and 10th days of November, 1914, at the city of Utica, on the 23rd of November, 1914, at the city of Albany, and was summed up at the city of Syracuse on the 1st of October, 1915.

Watson T. Dunmore, T. Harvey Ferris and Chester R. Dewey, for the claimants.

Edward J. Mone, John T. Norton and Arnold J. Potter, Deputy Attorneys General for the State.

MEMORANDUM

Irving G. Vann, Referee:

Much evidence was taken and many questions litigated on the trial which are now of no importance, because the contention

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that the entire claim was barred by the short statute of limitations was abandoned by the State after the passage of "An Act to extend the time for filing existing claims against the State for compensation or damages for or on account of the appropriation of property in connection with the construction of improved canals and canal terminals and giving the Court of Claims jurisdiction," approved May 14, 1915, and known as Chapter 640 of the Laws of 1915.

The parties stipulated, and the Court of Claims ordered accordingly, that all evidence already taken on the original claim should stand, so far as applicable, as evidence on the consolidated claim. The claimants by stipulation waived any claim for the value of the structures placed upon the property appropriated since the date of the appropriation.

The filing of the map, description and certificate and the service thereof on one or more of the claimants as tenants in common, but not upon all, affected a tentative appropriation, which became complete by service on the others at a later date, but, by operation of law, the later service related back to the earlier and the appropriation is regarded as having been made at that time. The service, whenever made, was part of one transaction and service on a single tenant in common paralyzed the action of all, for the property could not be improved except at the owners' risk or sold except at the owners' sacrifice. It would be against equity for the State to claim that it did not take the property until the last service was made, when the delay of years in completing service was wholly its own fault and it had certified on the map filed at the initiation of the proceeding that the property was necessary for a public improvement, and that it had been permanently appropriated therefor, which involved and finally resulted in the acquisition of every interest in the land. Moreover the property was at once entered upon and taken possession of by the State and the construction thereon of a huge dam for a reservoir was begun, after due preliminary investigation and preparation. Such possession has continued ever since, the dam has been completed and the early proceedings have been adopted and confirmed by the

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subsequent action of the State and its duly authorized officers. This conclusion is now important only with reference to the question of interest and to the effect of a subsequent conveyance by the claimants, to be noticed hereafter.

The contention that the land of the claimants on West Canada Creek did not extend to the center of the stream, is overruled, for such a construction of the deed which raises the question would not accord with either the presumed or the actual intention of the parties thereto. The general rule is that a conveyance of land bounded by a non-navigable stream carries title to the center thereof unless the parties restrict their grant to the shore line "in very plain and express words." (*Senaca Nation v. Knight*, 23 N. Y. 498, 500.) Such words are not found in the description in question, which, so far as now material, is as follows:

After several courses and distances having no relation to the creek it proceeds; "from thence N. $0^{\circ} 15'$ E. 57.25 chains to the West Canada Creek, being the N.E. corner of land described in aforementioned Talman deed. From thence S. $73^{\circ} 45'$ W. 11.50 chains to what is called in the Talman deed as the 'Subdivision line made for Bromley's lot' along the bank of the creek, from thence along the creek S. 81° W. 7.10 chains to the corner of a lot now contracted by said Beecher to Hinckley and Ballou by contract dated August 20, 1851, from thence etc."

The only confusion is caused by the use of the words "along the bank of the creek." Confusion requiring construction is usually resolved against the grantor, who is responsible therefor, as the words used are his own. This is especially so when it relates to a narrow strip, such as half of a street or stream much more valuable to the grantee than to the grantor, as "The parties are supposed to have so dealt with the property as to bring out its greatest value." (*Matter of Ladue*, 118 N. Y. 213, 219.) Accordingly the words causing the confusion should be held to refer to and to explain, define or modify the phrase, marked in the deed by quotation points, "subdivision line made for Bromley's lot." As thus construed the course "along the creek" carries the line to the center. (*Fulton Light, Heat & Power Company v. The State*, 200 N. Y. 417.) This construction is con-

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firmed by comparison with the earlier Talman deed referred to in the description, which, as it is conceded, carried the line to the center, indicating a common corner for both parcels situated in the center of the stream.

Moreover, a description with constant angles and exact distances is quite inapplicable to a shore line, and especially to such an irregular shore line as the maps show the one involved to have been. As Judge Comstock said in *Seneca Nation v. Knight, supra*," a strictly shore line upon a river would in most cases be exceedingly difficult to trace." (p. 500). The land in question, therefore, was available for a dam site and for reservoir purposes, which affected its market value at the date of condemnation.

The claimants are entitled to recover the market value of the property appropriated, estimated according to the condition of the title at the date of appropriation, as well as the damages caused to the remainder of their property not appropriated. Hence the flowage and booming easement granted by an early deed from the original proprietors of the land and the easement in the public for highway purposes are to be taken into account. The conveyance from the claimants to the Consolidated Water Company, dated, acknowledged and recorded after the condemnation became effective, should not be taken into account. When the State took the property it acquired all the interests of the claimants therein and they had nothing left to convey. Their claim against the State was personal property and their conveyance was carefully limited in that regard. (*King v. Mayer*, 102 N. Y. 171, 175.) Whatever effect the conveyance may have had as between the parties thereto is no concern of the State, for its title is not affected thereby in any respect. The express limitations in the conveyance itself prevent it from operating as an assignment of the claim under consideration or any part thereof.

Prior to the appropriation the property of the claimants consisted of a farm of about 120 acres situated on the southerly bank of the West Canada Creek in and near the village of Hinckley, with convenient railway communication and with a shore frontage of 1442 feet. Upon the property were the homestead, a large tenant house, two stories high, 48 by 50, containing eleven rooms,

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a smaller tenant house, three barns and some smaller buildings, all in good repair and well painted, except one of the barns. The West Canada Creek has a watershed or drainage area at Hinckley of 372 square miles. The average rainfall is about 55 inches, or more than any other section of the State with one exception, in the southwestern Adirondacks. The flow at Hinckley, ranging through a long series of years, varies from a minimum of about 150 cubic feet per second to a maximum of 35,000 to 40,000 cubic feet per second. It is one of the best yielders of water in the State. The water fall at Hinckley is 14 feet and below that point to Herkimer, twenty-two miles distant, where the creek empties into the Mohawk river, are waterfalls, largely developed, but some undeveloped, aggregating about 400 feet. This large head of water available for use below Hinckley would make a storage reservoir at or near that point of value. While there were other sites above, there were none that could provide storage in the very large volume of more than a billion feet such as the one situated at Hinckley, which was nearest to the available water powers below, and hence the water stored would take the shortest time to reach the point where it could be used for power.

The State dam as now built at Hinckley, and as was contemplated when the appropriation was made, extends straight across the claimants' property and over one-half of the dam is on the land which formerly belonged to them. It has a storage capacity of 3,345,000,000 cubic feet, or 25,000,000,000 gallons. The site was the most available for large storage of any on the stream, because it controlled the largest drainage area, had the greatest capacity, was located nearest the point where stored water could be utilized for power purposes, had the best rock foundation, and, owing to the configuration of the valley, could be developed with greater economy than by the construction of several reservoirs at different points on the stream above and below Hinckley. The site was also available for a water supply to several municipalities in the Mohawk Valley.

As early as 1896 the Utica Gas & Electric Company had begun the work of acquiring sites for storage purposes on the West Canada Creek and had purchased 2,000 acres within the flow line

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of what is now the State reservoir at Hinckley, but when the Advisory Board selected that location for a site the Utica Company abandoned further efforts. Other companies and persons had also acquired for storage purposes land affected by the dam as now built and negotiations were pending for the purchase of other lands for the same purpose before the State intervened. The facts thus recited and others shown by the evidence were known to many persons who were interested in the stream and its availability for storage purposes, and they increased the market value of the premises in question.

The Hinckley homestead is an old, large, fine, well-built, two and one-half story house, 40 by 80, including an "L" situated on a high terrace, commanding an extensive view of the beautiful scenery up West Canada Creek. The house was built fifty years ago of virgin pine of a lasting quality not now to be had, with double studding and sheathing. There were also a large woodshed and a barn, 40 by 80, for carriages, cows and horses, on the premises and used in connection with the house. All the buildings, including the tenant houses and all but one of the barns, were well painted, in good repair and had an abundance of shade trees and water. The homestead property was not taken by the State, but it was materially injured by the construction of the dam, over 100 feet high and less than 200 feet distant, which cut off the beautiful view up the creek by interposing a huge blank wall. This is more apparent from the inspection made by the referee in the presence of counsel on either side, than can be made to appear by the most elaborate description. About five-sixths of the claimants' land, including the tenant houses and the barns connected therewith, were taken by the State, leaving but about twenty acres of the entire farm unappropriated, with a great house no longer desirable as a residence and a huge barn almost useless with so little land. The consequential damages resulting from the appropriation were substantial in amount.

My final conclusion is that the market value of the land appropriated, with the buildings and structures thereon, at the date of appropriation, is the sum of nineteen thousand dollars (\$19,000.00), and that the damages to the rest of the farm and prem-

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ises of the claimants, not appropriated, caused by the appropriation, is the sum of six thousand five hundred dollars (\$6,500.00), making a total of twenty-five thousand five hundred dollars (\$25,500.00).

The claimants are entitled to judgment against the State for the sum of twenty-five thousand five hundred dollars (\$25,500.00) with interest on the respective valuations from the date of the appropriation of each of the four parcels, separately appropriated. Unless counsel can agree upon a common date from which to figure interest, as they probably can, for the two earlier appropriations were near together and the two later were of little value, further evidence must be taken, as the evidence now in does not enable me to compute the interest on an exact basis, as values were proved in bulk for the entire property. This question may be determined when the findings, which I request counsel to prepare, are presented for settlement.

APPENDIX II

**Containing the Fourteenth Annual Report of the
Court of Claims Covering the Year 1910**

**Judges and Officers of the Court of Claims in the
Year 1910**

Theodore H. Swift, Presiding Judge, Potsdam, N. Y.

Adolph J. Rodenbeck, Associate Judge, Rochester, N. Y.

Charles H. Murray, Associate Judge, New York City.

Charles E. Palmer, Clerk, the Capitol, Albany, N. Y.

Worth Chamberlain, Deputy Clerk, the Capitol, Albany, N. Y.

George L. Thomas, Stenographer, Albany, N. Y.

J. Fremont Thompson, Marshal, Albany, N. Y.

FOURTEENTH ANNUAL REPORT OF THE COURT OF CLAIMS OF THE STATE OF NEW YORK

STATE OF NEW YORK

COURT OF CLAIMS,

CLERK'S OFFICE, ALBANY, *May 1, 1911.*

HON. THOMAS F. CONWAY, *President of the Senate:*

DEAR SIR.—I have the honor to transmit the fourteenth annual report of the Court of Claims, covering the year 1910.

Very respectfully yours,

CHARLES E. PALMER,

Clerk.

To the Legislature of the State of New York:

Pursuant to section 271 of the Code of Civil Procedure, which requires that the Court of Claims at the commencement of each session of the Legislature and at such other times during the session as it may deem proper or as the Senate or Assembly may request "report to the Legislature the claims upon which it has finally acted with a statement of judgment in each case;" the Court in accordance with these requirements submits its fourteenth annual report.

Column one is the number of the claim; column two, the name of claimant; column three, the amount claimed, and column four, the amount of the award made.

No.	Name of Claimant	Claim	Judgment
8693	Abeel, Barney, & ano.	\$3,785 00	\$650 00
9790	Allen, Claude H.	197 64	110 00
8933	Allen, Frank H., & ano. . .	4,437 55	1,780 50

No.	Name of Claimant	Claim	Judgment
5485	Allen, Nora A.	\$66 95	State
5486	Alliance Bank	41 74	State
8421	Altmire, Nicholas	1,201 80	State
5487	Anderson, Jessie E., adm., &c.	38 89	State
8420	Andre, Stephen	625 00	State
9891	Art, Adam	7,415 00	\$1,538 97
5488	Attridge, Eliza, et al.	16 60	State
5489	Auer, Anna B., exec., &c..	35 76	State
5490	Austin, A. Judson.	9 22	State
5491	Avery, Jennie F., adm., &c	17 19	State
5492	Ayres, Fred, exec., &c....	7 10	State
8434	Bachman, Frederick E....	506 00	State
8435	Bachman, William C....	1,268 00	State
8433	Back, Nicholas	869 40	State
9274	Bailey, Anna S., & ano...	16,527 55	3,137 46
9479	Baird, Henry	855 00	140 00
5494	Banman, Mary A.	83 75	State
9222	Bargy, Mary	125 00	55 00
5780	Barron, Martin	21 59	State
6561	Barry, John, & ano....	300 00	State
9113	Bartholomew, Alanson D., et al.	3,793 95	2,080 05
8954	Bascom, Mary E., et al...	1,044 55	90 67
8544	Bassett, Charles M....	4,881 00	State
5493	Bassett, Margaret H., ind., &c.	122 38	State
9795	Bauer, Christopher	134 05	68 00
5515	Bauer, William H., adm., &c.	127 55	State
8576	Beach, John L.	1,550 00	State
8771	Bebo, Mary, et al.	7,339 55	2,846 81
5721	Bechtold, Henry	9 70	State
8432	Beck, Aaron L.	632 50	State
5495	Bellew, Esther C., & ano..	53 62	State
5496	Bellew, John	58 06	State
5497	Bellew, John	33 06	State

No.	Name of Claimant	Claim	Judgment
5498	Bemish, Elizabeth, adm., &c	\$7 73	State
5499	Bennett, Cyrus R.	13 31	State
8418	Bennett, Lewis M.	1,864 49	\$1,507 75
5500	Bernhard, Adam	59 68	State
8431	Beyer, Peter	646 50	State
5501	Bicknell, William J. C. . .	126 11	State
8423	Bintz, Nicholas C.	1,708 00	State
9556	Blacklock, James S., & ano.	250 00	99 93
5502	Blackwood, Henry D.	15 72	State
8422	Blade, Charles A.	798 00	State
8996	Blaisdell, Walter P., & ano	4,622 55	1,233 94
8093	Blanchard, Kitty L., adm., &c.	2,500 00	2,320 38
8427	Bliss, Albert J.	4,894 00	State
5503	Blumenstock, Fredericka. .	22 36	State
8998	Bonneville, Margaret, et al.	6,000 00	2,760 77
8429	Boshart, Albert C.	1,336 50	State
8545	Boshart, C. Fred, & ano. .	2,100 00	State
8526	Boshart, C. Fred, et al. . .	8,750 00	State
8547	Boshart, Clara A.	2,190 00	State
8543	Boshart, Frank E.	1,939 50	State
8542	Boshart, Frank E., exec., &c.	1,302 00	State
8546	Bostwick, Adele P., et al. .	4,348 00	State
9223	Boudry, William	310 00	120 00
5504	Bour, Katherine	30 00	State
5505	Bowman, Catherine E. . . .	30 64	State
5506	Bradt, James	39 52	State
5507	Brady, Gilbert	1,520 65	State
5510	Brann, Kathryn, adm., &c.	93 59	State
5508	Brayer, Elizabeth, exec., &c	3 57	State
9301	Brett, George B., et al. . . .	3,500 00	2,325 70
5768	Brewster, H. Austin.	55 59	State
8484	Briggs, C. W.	764 00	State
5509	Brown, Esther J., exe., &c	14 57	State
8424	Brown, Irving C.	1,580 00	State

No.	Name of Claimant	Claim	Judgment
8426	Brown, Lyman W., & ano.	\$2,567 00	State
5512	Brown, Mary, exec., &c..	23 96	State
5511	Brown, Mary A., adm., &c.	2 84	State
5513	Brown, Robert B., & ano..	116 38	State
5514	Brown, William C., exec., &c.	39 00	State
9283	Bruen, John, & ano.....	3,884 55	\$1,095 28
5722	Buck, George L., & ano...	54 25	State
5516	Buckley, Mary E., adm., &c.	5 26	State
5517	Buell, George C., exec., &c.	35 91	State
5518	Buff, Pauline, exec., &c...	9 48	State
8726	Buffalo, Rochester & Pitts- burgh Ry. Co.....	4,722 72	1,555 77
8249	Burchard, Mary W.....	4,500 00	857 76
	Judgment reversed: 128 App. Div. 750. New trial and costs to claimant . . . . .	.....	258 13
	Judgment on second trial	.....	1,297 50
8430	Burdick, George A.....	1,961 00	State
5520	Burkhard, John, adm., &c.	8 98	State
9392	Burks, Alonzo E.....	15,000 00	2,836 55
	Affirmed: 138 App. Div. 931.		
9392	Burks, Alonzo E.....	5,000 00	1,000 00
	Affirmed: 138 App. Div. 931.		
9394	Burks, Clara G.....	15,000 00	1,500 00
	Affirmed: 138 App. Div. 931.		
5519	Burnham, Caroline A....	27 07	State
5521	Burns, Mary A., et al....	5 14	State
9188	Burns, Patrick F., et al..	4,250 00	State
9434	Burns, Patrick F., et al..	4,255 00	3,161 17
9726	Burr, James S.....	168 00	140 00
8428	Burrington, Alvin	10,831 00	State

No.	Name of Claimant	Claim	Judgment
5522	Callister, William D., et al.	\$214 35	State
9856	Campbell, Frank	1,250 00	\$1,334 79
5523	Campbell, John H., exec., &c.	215 35	State
5524	Campbell, John H., ind., &c.	18 10	State
5525	Campbell, Nancy	3 85	State
9391	Carroll, Edward, Jr., et al.	8,921 03	10,632 38
5526	Casey, Ann	40 07	State
9761	Casey, Catherine	4,965 75	1,355 00
5723	Casey, James W.	94 58	State
9506	Casler, Benjamin P., & ano	5,000 00	4,825 32
5724	Chamberlain, Jane	88 43	State
9101	Champlain Stone & Sand Co.	224,412 57	1,170 83
Affirmed: 142 App. Div. 94.			
5479	Chapin, Emelia W.	106 47	State
5527	Chappell, Jane M., et al..	45 15	State
9587	Chism, Charles J.	187 75	193 94
5528	Church, Plymouth	96 00	State
5725	Churchill, William W., exec., &c.	50 21	State
8106	City of Auburn.	3,102 70	State
5529	Clark, Daniel, & ano.	474 29	State
8439	Clark, Eugene S., et al. . .	1,240 00	State
9780	Claus, Philip, & ano.	7,722 80	2,940 62
10029	Claxton, John P.	458 80	250 00
9518	Clifton, Lewis J.	360 00	75 00
5530	Cline, Jerome B., exec., &c.	114 75	State
5531	Cone, Clara P., adm., &c. .	3 86	State
5532	Connell, James	61 15	State
5533	Conway, John, exec., &c. .	73 39	State
5535	Copeland & Durgin Co. . .	900 28	State
5534	Cory, Eliakin T.	9 85	State
5536	Cotchefer, Richard	9 86	State
9530	Cowles, Horace N.	21,582 60	1,440 02

No.	Name of Claimant	Claim	Judgment
5537	Crowley, Edward A.....	\$53 28	State
9463	Crane, Alexander S.....	10,305 00	\$1,000 00
5538	Crombie, Hannah, exec., &c.	5 00	State
9589	Crookston Milling Co....	1,455 00	1,267 35
8437	Cropsey, Edward J.....	2,251 00	. State
8440	Crouse, Edward L.....	222 50	State
8438	Culbertson, Robert	2,251 00	State
8436	Cummins, James W.....	942 00	State
5539	Curtin, James F., & ano..	46 82	State
9181	Curtin, James J.....	1,600 00	90 60
5540	Curtin, Margaret Murphy.	112 34	State
5726	Curtis, Eugene T., exec., &c.	28 80	State
5541	Curtis, Josiah	13 67	State
5543	Daily, Mary	10 08	State
9132	Daley, Patrick B., & ano..	21,314 55	3,704 51
5544	Damon, Edmund T., exec., &c.	5 09	State
5545	Dans, Matthew	119 50	State
9388	Davison, Robert D., & ano.	4,456 35	1,250 41
8441	Dawley, Clark D., & ano..	1,600 00	State
8425	Dean, William E.....	1,058 00	State
8757	DeLora, Josephine	1,689 55	1,450 60
8767	DeLora, Josephine	4,269 55	2,538 55
8273	Deming, Hugh	150 00	20 00
8923	Deming, Hugh	75 00	20 00
8017	Denman, Jesse F.....	600 00	State
8905	Denman, Jesse F.....	600 00	State
5547	Denny, Agnes	37 28	State
5546	Derrick, Timothy, adm., &c.	11 00	State
9100	Dickinson, Ashley	1,545 00	150 00
9347	Donnelly, Mary A.....	1,200 00	362 65
9389	Doran, Frank J.....	2,223 91	1,156 34
9979	Dornfeld, Albert, & ano...	2,111 50	1,189 53
9978	Dornfeld, William	2,528 40	1,802 47

No.	Name of Claimant	Claim	Judgment
5548	Dougherty, Elizabeth.....	\$73 30	State
5549	Dransfield, Elizabeth B...	42 33	State
5551	Dransfield, Thomas	100 39	State
5550	Dransfield, Thomas, exec., &c.	26 25	State
5552	Durand, Frederick L.....	38 44	State
9305	Dyer, John, Jr.....	2,160 00	\$1,300 00
5727	Eastman, Emily J.....	18 66	State
8548	Easton, Frederick S., adm., &c.	1,254 00	State
8442	Ebersol, Joseph E.....	1,240 00	State
5764	Edelman, Lewis, exec., &c.	28 11	State
5553	Ehrstein, Catherine	9 57	State
8549	Einbeck, Henry	4,548 00	State
9670	Eldridge, Adell L.....	133 42	133 42
5554	Elliott, William H.....	7 82	State
8443	Ellis, Christian R.....	1,565 00	State
5555	Ely, Caroline L.....	106 03	State
7043	Ely, George Burke.....	1,800 00	State
Affirmed: 132 App. Div. 938; 199 N. Y. 213.			
9771	Emens, Lilla Alice.....	262 00	100 00
5556	Emerson, Sarah L., adm., &c.	304 59	State
8964	Emery, Mary P., ind., &c.	2,190 20	949 60
5728	Ernst, Philip	9 32	State
5557	Ertl, John	57 15	State
5558	Fagan, Susan, exec., &c..	6 39	State
8444	Farney, A. R.....	1,317 00	State
8448	Farney, Benjamin F.....	491 50	State
8451	Farney, Joseph S.....	2,811 24	State
8446	Farney, Leroy V.....	10,127 96	State
8447	Farney, Otto J.....	843 00	State
8550	Farrar, Harvey D.....	4,563 00	State
8449	Farrar, John E.....	3,186 00	State
5766	Fay, Maria L.....	13 00	State

No.	Name of Claimant	Claim	Judgment
8450	Feisthamel, Pauline	\$620 00	State
7272	Fenaughty, Margaret . . .	825 00	\$400 00
8939	Fenton, Charles S.	200 00	45 00
8445	Fenton, John B.	1,175 00	State
5559	Finley, Elizabeth, exec., &c	7 61	State
5560	Fischer, Jacobina, adm., &c	62 02	State
9429	Fitch, Willard R.	501 62	150 93
5782	Fitz Simons, Michael H. .	42 74	State
9306	Flanigan, Alice	41,860 00	7,596 29
5660	Flour City Hotel Co.	57 86	State
9450	Flower, Frederick S., et al.	3,478 93	State
9552	Forness, Frank J., & ano. .	700 00	164 50
9546	Forness, Margaret	1,500 00	274 16
5562	Frank, Jacob	37 33	State
8720	Frank, Wigbert, & ano. . . .	12,328 90	2,157 73
5563	Frazier, Mary, & ano.	11 00	State
5564	Friederich, John J. L., & ano.	102 69	State
5729	Frost, Henry C., exec., &c.	33 75	State
5730	Frost, Sarah, exec., &c. . . .	46 88	State
5448	Fuchs, Jacob	51 00	State
5731	Fuchs, Katherine	9 67	State
7535	Fuller, James K.	360 00	State
8294	Fuller, James K.	720 00	State
9206	Fuller, James K.	600 00	80 00
9103	Fulton Light, Heat & Power Co., & ano.	3,428,028 16	356,019 13
Judgment affirmed: 138 App. Div. 931; 200 N. Y. 400.			
8454	Ganzel, Lewis	950 00	State
5565	Garrison, John	42 18	State
5566	Gavin, Michael	22 44	State
9462	Gay, John H., et al.	9,818 47	5,286 88
9489	Gay, William J., & ano. . . .	712 16	455 67
5567	Gaylord, Mary Elizabeth, & ano.	6 94	State

No.	Name of Claimant	Claim	Judgment
8453	Gazine, John L.	\$731 92	State
5568	Geddes, Margaret B., adm., &c.	303 35	State
8638	Genzel, John	5,605 00	State
9571	Gerlach, Andrew W. & ano.	503 00	\$400 00
5569	Gerling, John	115 64	State
5570	Giles, Martin J.	11 00	State
5571	Gillette, Sarah C.	11 00	State
5572	Glasser, Frank C., exec., &c	42 58	State
5573	Glenn, Sarah A., & ano. . .	135 46	State
5732	Goetzman, Elizabeth	22 30	State
5733	Goetzman, Henry W., & ano.	9 50	State
9911	Goff, Gertrude Pauline, by guard.	11,500 00	1,339 20
5574	Gomenginger, Edward, adm. &c.	9 88	State
5575	Goodman, Daniel, exec., &c	9 48	State
8988	Goodridge, Mary, et al.	776 35	556 45
5734	Gorsline, William H.	656 00	State
8452	Goutremont, Lena	754 00	State
5577	Grace, Jennie	38 11	State
9519	Graham, Charles F.	500 00	55 00
9058	Graham, William L.	7,752 55	2,655 30
9167	Greene, Margaret E.	400 00	90 00
9076	Greene, Margaret E., et al.	12,244 20	3,441 79
5576	Greenwood, John	43 01	State
5578	Griebel, Barbara, exec., &c.	31 26	State
9050	Griffin, Amos K., & ano. . .	1,912 55	405 24
9211	Grimes, John	158 00	98 00
9720	Groton Bridge Co.	8,588 63	State
9864	Gutberlet, Andrew C.	137 00	50 00
9432	Haas, Luella	1,801 62	789 83
5579	Haines, Anna Jane, & ano.	9 89	State
9735	Hall, Roland	40 00	20 00
5580	Hallowell, Mary H.	56 26	State
5736	Hannan, John W.	4,469 31	State

No.	Name of Claimant	Claim	Judgment
8459	Hanno, Christopher	\$334 00	State
8639	Hanschen, Mary	650 00	State
5583	Hanvey, Joseph A., adm., &c.	39 75	State
5458	Hanvey, Mary J., & ano..	101 97	State
5459	Hanvey, Mary J., et al..	29 69	State
5581	Hardwood Lumber Co....	1,587 07	State
9566	Hardy, William	1,510 00	\$330 00
5482	Hargather, Louise	30 93	State
5481	Hargather, Peter F.....	28 81	State
5582	Hart, James C.....	102 69	State
9498	Hathaway, Amandus, & ano.	701 62	440 94
9669	Hayes, William D.....	133 42	133 42
5584	Haywood, Emily S., exec., &c.	8 02	State
9534	Hazard, Louisa F.....	2,337 50	295 53
5585	Hedditch, Henry	118 08	State
8552	Heimhilger, Lydia	620 00	State
5586	Herschell, Emeline	55 85	State
5738	Hess, Helen M.....	58 94	State
5587	Heusler, John	21 57	State
8311	Hilfinger, Alexander, et al.	10,052 60	3,098 30
5588	Hills, Isaac	85 50	State
5589	Hingston, Richard A., adm., &c.	8 50	State
5737	Hinman, Mary E.....	4,469 31	State
8457	Hirschey, John C.....	1,232 00	State
8455	Hirschey, Joseph	4,430 00	State
8461	Hirschey, William	4,514 00	State
9364	Hitchcock, Charles H., & ano.	523 95	State
5735	Hoag, John, exec., &c....	43 02	State
5739	Hof, Margaret	23 42	State
5590	Hoffman, George F., exec., &c.	14 23	State
5741	Hollister, George C., & ano	38 23	State

No.	Name of Claimant	Claim	Judgment
5740	Hollister, George C., exec., &c.	\$28 25	State
9401	Holman, Chauncey L.	4,032 65	\$2,475 46
9588	Holtz, Lipman	199 00	199 00
8460	Honer, John M.	630 00	State
8551	Hopel, Libbie	2,808 00	State
5591	Hopwood, Sarah R.	8 29	State
9385	Houck, John J., & ano.	200 00	130 00
9344	Hough, David L.	2,775 00	1,350 00
9517	Houghtaling, Rachel E.	75 00	15 00
8458	House, J. H.	5,550 00	State
5592	Howard, John	38 43	State
8456	Howard, John	3,850 00	State
5593	Howard, John E., & ano.	63 57	State
5594	Howe, Mary, & ano.	5 44	State
5596	Hubachuck, Helene, exec., &c.	15 91	State
5597	Huck, Albert	52 50	State
5598	Huck, Elizabeth H.	52 50	State
5599	Hulbert, Isabella	16 31	State
9540	Humphrey, Mary C.	22,943 00	State
5600	Husband, Thomas H., exec., &c.	10 07	State
9679	Huston, Louis E.	1,500 00	1,065 00
5480	Hutchinson, Harriet M. S.	130 67	State
5601	Hyde, Hampden, exec., &c.	5 30	State
5602	Hyde, Hampden, exec., &c.	195 14	State
5603	Immel, Joseph, & ano.	87 60	State
9396	Inda, Rosalia, exec., &c.	50,000 00	6,000 00
Affirmed: 138 App. Div. 931.			
9730	Ives, John H.	120 00	29 00
8553	Jacques, Fred C.	1,039 94	State
9657	Jagow, John	1,200 00	731 48
8660	Jennings, Dwight P.	6,000 00	400 00
5742	Jennings, Nancy B.	58 20	State
9296	Johns, Ada	250 00	120 00

No.	Name of Claimant	Claim	Judgment
9197	Jones, Anna F.....	\$200 00	\$175 00
9168	Jones, Marvin A.....	350 00	135 00
9950	Josephs, Jessie M.....	626 00	50 00
5604	Judson, J. Lee, adm., &c..	90 70	State
9917	Kanandarque Club	500 00	371 70
5606	Kane, James E., adm., &c.	3 88	State
5605	Kannan, Catherine C....	39 13	State
5607	Keegan, Arthur, exec., &c.	13 56	State
5743	Keener, John, exec., &c...	371 67	State
5608	Kelly, J. Miller, exec., &c.	42 00	State
9923	Kenyon, Charles, & ano...	1,000 00	221 40
9749	Kinser Construction Co...	370,525 41	77,425 46
9469	Kirby, Gustavus T.....	2,900 00	2,900 00
8463	Klein, Claude	1,119 00	State
5689	Klein, Martin Stoe, exec., &c.	26 03	State
5778	Klem, Michael, & ano....	83 58	State
7937	Kline, Jay B.....	1,500 00	State
8554	Kloster, Florence L., et al.	11,010 00	State
5483	Knapp, John	23 46	State
5609	Knobles, Joseph W.....	30 12	State
5610	Knobles, Joseph W., adm., &c.	43 10	State
5670	Koehler, Barbara, exec., &c	15 78	State
5611	Konath, Gottlieb, & ano..	87 08	State
5612	Kondolf, Mathias	513 78	State
8462	Koster, Albert D.....	474 00	State
5744	Kreft, Ludwig	9 71	State
5449	Kubel, John	37 50	State
8872	LaMore, Peter, Jr.....	1,479 55	725 30
9678	Lannan, James	60 00	45 00
9419	Laraway, Jennie E., et al.	10,117 43	4,829 03
5613	Larson, Elias T.....	22 29	State
5614	Larson, Georgiana	21 43	State
9732	Lasher, George	60 00	20 00
9731	Lasher, George, & ano....	40 00	20 00
5450	Lazier, Lewis B.....	37 50	State

No.	Name of Claimant	Claim	Judgment
5615	Leary, Herbert, & ano....	\$518 30	State
5618	Lee, Pauline B.....	13 02	State
5745	Lee, Pauline B.....	13 00	State
5617	Lehman, Gertrude, adm., &c.	62 19	State
8611	Lehman, Simon F.....	411 00	State
9712	Lenhart, George, & ano...	9,399 30	\$2,022 52
9714	Lenhart, George, & ano...	111 20	104 82
9592	Lent, George B.....	300 00	119 68
9591	Lent, John H.....	1,650 00	1,200 00
8358	Lewis, Sarah A., et al....	395 00	273 92
5618	Lick, Elizabeth	16 90	State
8464	Linstruth, Henry, & ano..	2,788 00	State
8555	Linstruth, Philip	1,350 00	State
9972	Lockport Leather Board Co	584 29	232 25
9542	Logan, William J.....	5,000 00	2,272 50
8465	Lomber, George P.....	415 00	State
8467	Lomber, John	477 00	State
8468	Lomber, Lewis	669 80	State
8579	Lomber, Magdalena	308 00	State
5619	Loomis, John B.....	21 98	State
8466	Loson, Joseph	986 00	State
9887	Lureman, Charles	136 50	77 91
9888	Lureman, Charles	4,183 10	703 18
9496	Lynn, Thomas M.....	514 10	350 00
9796	Lynn, Thomas M.....	420 00	250 00
5621	Mackwood, Robert, adm., &c	22 21	State
9791	Manley, Frank	138 10	85 00
9623	Marshall, Jane M., et al..	2,210 00	1,877 81
5623	Marson, William H.....	17 66	State
5746	Mathews, Elizabeth G....	49 50	State
5624	Mathews, Mary E., adm., &c.	93 78	State
5747	McAlpine, Susan P.....	53 48	State
5781	McAnamey, John H., & ano.	92 36	State

No.	Name of Claimant	Claim	Judgment
9769	McCabe, Margaret	\$1,000 00	\$676 00
5626	McClelland, Amelia J., adm., &c.	25 94	State
5627	McCormick, Catherine C.	46 06	State
5628	McCormick, Dennis	12 25	State
9896	McFadden, William D.	780 00	State
8559	McGowan, A. H.	758 00	State
5629	McIntyre, Catherine	109 45	State
9202	McIntyre, Charles W.	300 00	20 00
9475	McKinley, Charlotte	701 62	772 37
5622	McMahon, Ann, adm., &c.	49 68	State
8471	Mecker, Harriett C.	450 00	State
8473	Meister, Morris	4,700 00	State
8556	Melnitz, Carrie	968 00	State
8474	Melnitz, Charles	930 00	State
5767	Melvin, Edmund A., et al.	16 18	State
9659	Merritt, Lavina R.	1,500 00	861 12
8557	Merz, Charles	2,818 00	State
8469	Merz, William	759 50	State
5630	Messinger, Mary Ann.	8 58	State
5631	Meyerhoff, George E.	128 22	State
8475	Miller, Anthony	655 50	State
5632	Miller, Anthony J.	7 90	State
9336	Miller, Cora A.	1,541 95	1,086 83
5633	Miller, Frederick	90 30	State
9541	Miller, John B., et al.	25,000 00	State
5634	Mogridge, John	241 26	State
8472	Monnat, Francis	1,401 00	State
5635	Monroe, County of.	66 00	State
5636	Montgomery, James H., et al.	39 04	State
5637	Montgomery, Thomas C., & ano.	15 72	State
9784	Moroney, Martin J.	3,004 50	State
8558	Moselle, Elizabeth	961 00	State
5638	Mosier, Caroline A.	10 36	State
8768	Mosso, Joseph E., et al.	6,029 55	1,205 67

No.	Name of Claimant	Claim	Judgment
5640	Muhl, Christian	\$65 36	State
9707	Mullet, Henry	244 40	\$135 23
9705	Mullet, John	57 20	29 98
9708	Mullet, John	6,246 00	1,293 70
9716	Mullett, Henry	19,095 50	4,375 00
5639	Murphy, Mary	11 36	State
8165	Murray, John	1,700 00	1,371 51
8470	Myers, Maria A.	622 70	State
5699	Nazareth Convent & Academy	88 40	State
8920	Needham, Arthur	300 00	50 00
9218	Needham, Arthur G., & ano.	5,979 55	3,082 97
9792	Nellis, Carl H.	80 00	40 00
9793	Nellis, Minnie E.	146 20	100 00
5642	Nerille, Mary J., adm., &c.	22 46	State
5641	Newell, Ada A.	713 66	State
5457	Newell, Frank G., & ano.	2,140 99	State
9649	New England Brick Co.	3,508 00	State
5700	New York Central & Hudson River R. R. Co.	2,883 63	State
8476	Noftsier, Christopher C.	624 00	State
5644	Normalie, Henry, & ano.	46 88	State
5643	Normile, Henry	73 86	State
8560	Northman, Henry C., exec., &c.	1,240 00	State
8580	Nye, B. Frank.	810 00	State
9650	O'Bryan, Lina, adm., &c.	20,080 00	State
5646	O'Connell, Mary A., exec., &c.	39 75	State
5647	O'Connor, Ann, exec., &c.	8 47	State
5648	O'Hara, Thomas A., adm., &c.	7 84	State
5651	O'Kane, John	12 97	State
5649	Oldfield, Nicholas, exec., &c.	7 37	State
5650	Oliver, Peter, & ano.	10 50	State

No.	Name of Claimant	Claim	Judgment
5620	O'Loughlin, Ellen, exec., &c.	\$15 19	State
5765	O'Loughlin, Michael	26 10	State
9399	Olszewska, Veronica	20,000 00	\$4,301 00
Affirmed: 138 App. Div. 931.			
9485	Ontario Knitting Co.	1,019,051 78	State
5652	O'Reilly, Michael, exec., &c	79 56	State
8561	Ossont, Peter	668 00	State
5653	Otis, Elwell S., et al.	336 51	State
8477	Otis, R. C.	857 85	State
5748	Oyman, Augusta	10 38	State
9158	Parker, Robert	1,655 00	State
Affirmed: 140 App. Div. 945.			
9428	Parrish, Frank	150 00	20 00
5762	Parsons, Augusta B.	30 37	State
5472	Parsons Malting Co., E. B.	372 29	State
5654	Patterson, Sophia	6 32	State
5655	Peacock, John V., & ano. . .	593 20	State
9729	Pearse, Frank T.	80 00	25 00
9733	Pearse, James C.	120 00	35 00
8276	Peck, Smith	200 00	20 00
9198	Peck, Smith	200 00	20 00
8562	Peckham, F. R.	2,046 00	State
8564	Pelton, Charles E.	11,057 25	State
9747	Pender, Ellen	700 00	700 00
5656	Peoples, James A., et al. . .	27 37	State
5749	Perkins, Gilman N., exec., &c.	118 49	State
8961	Peters, Roxanna L.	6,829 55	1,571 48
8631	Peterson, Schuyler	1,228 16	547 69
8479	Petrie, Edwin J.	311 00	State
9794	Pettingill, Walter T., & ano.	196 60	107 50
8478	Petzoldt, Amos F.	353 50	State
8766	Pfeifer, Peter, et al.	1,500 00	250 00

No.	Name of Claimant	Claim	Judgment
9199	Pickard, Henry	\$200 00	State
9213	Pierce, Henry J.	21,325 00	\$2,160 80
8922	Pike, John M., & ano.	500 00	100 00
5657	Pillow, Edward F., adm., &c.	13 44	State
5455	Pond, Mary E.	33 75	State
9439	Post, Anthony	20,000 00	1,800 00
5750	Post, Jacob K.	33 50	State
5658	Potter, Charles B.	44 65	State
9210	Potter, George S., exec., &c	45,985 00	4,538 65
9044	Powell, Ida M.	4,828 55	826 71
5659	Powers, John C., et al.	57 15	State
8965	Pratt, Harriet E., exec., &c	17,054 55	1,980 80
8563	Pridell, Welsey C.	2,039 00	State
5661	Pridmore, Joseph O.	37 55	State
8817	Pronoth, William	500 00	150 00
9186	Pronoth, William	450 00	75 00
9938	Pronoth, William	450 00	75 00
5662	Purdy, Frank E.	4 91	State
5663	Ratcliffe, Bertha A., & ano.	70 91	State
5664	Rau, Gustavus	79 33	State
3831	Reddick, Robert	2,020 00	State
5675	Reef, John, exec., &c.	2 10	State
5763	Reynolds, Leah C.	18 76	State
8289	Rice, George	625 00	385 70
5665	Ries, John G., & ano.	12 07	State
8486	Riffanacht, John	6,250 00	State
8481	Riffanacht, Joseph	346 50	State
5666	Riley, Ashabel W., & ano.	33 00	State
3705	Roberts, Mary D., exec., &c	2,000 00	State
5040	Roberts, Mary D., exec., &c	1,000 00	State
5667	Roche, Rosa M.	129 16	State
5751	Rochester, John H.	74 22	State
5669	Rochester Trust & Safe De- posit Co.	140 99	State
8483	Rogers, Fred	1,445 00	State
8480	Rogers, Henry F.	1,264 00	State

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8482	Rogers, Louisa H.....	\$416 00	State
5671	Rogers, Thomas H.....	7 51	State
8487	Rohr, Christian M.....	3,078 00	State
8565	Rohr, Samuel	5,352 00	State
9451	Rossow, George, & ano....	8,755 00	\$916 12
5674	Rothfritz, Louisa, exec., &c	5 07	State
5673	Rowley, Caroline R.....	42 33	State
5672	Rowley, Caroline R., et al.	46 88	State
8488	Rubar, Charles	652 00	State
8979	Ryan, John	4,938 95	594 58
5676	Ryan, Roger	46 88	State
9765	Sahr, Martin, & ano.....	450 00	270 91
5752	Sage, Edwin O.....	85 28	State
5754	Sage, William L., exec., &c.	79 15	State
8568	Salmon, N. Wells	1,774 00	State
5677	Sanderson, George T.....	46 83	State
5678	Savage, Maurice	40 36	State
5679	Schaeffer, Charles F., et al.	104 73	State
8493	Schantz, Christopher R...	7,029 12	State
9702	Scherf, Frank J., & ano...	13,074 00	3,858 94
9715	Scherf, Frank J., & ano...	263 80	159 63
8929	Schocke, Henry	1,194 55	615 00
8569	Schorge, Frederick A....	499 00	State
8490	Schorge, John C.....	508 00	State
5680	Schurey, John N., exec., &c	17 82	State
5441	Schwab, Bernard	42 38	State
5442	Schwab, Bernard, ind., &c.	44 30	State
5681	Searle, Ella R.....	356 83	State
5473	Scarle, Harriet E., et al..	44 25	State
9710	Seefried, Katharine, et al.	12,389 86	4,202 15
9717	Seefried, Katharine, et al.	131 43	105 40
5682	Seward, William R.....	5,817 59	State
9719	Shaffer, Henry, et al.....	22,085 80	6,629 74
8497	Shea, Martin	8,235 00	State
5683	Sheridan, Ann	223 46	State
9953	Sherman, Billings, by guardian	2,736 76	2,823 25

No.	Name of Claimant	Claim	Judgment
8990	Shetrum, John, & ano....	\$3,974 55	\$1,143 17
5684	Siener, Katherine, exc., &c	8 09	State
5595	Sill Stove Works.....	392 71	State
8975	Simons, Stephen A., Sr., & ano.	1,044 55	212 10
8496	Simpson, Emma L.....	625 00	State
8498	Singer, Fred	586 00	State
8494	Slaid, George T., exec., &c.	1,202 00	State
5685	Slattery, Anna, adm., &c..	8 99	State
5696	Smartman, Charles, exec., &c.	66 67	State
8718	Smead, Aquilla	7,213 55	2,423 00
5755	Smith, Anna, adm., &c...	119 25	State
5686	Smith, Ella P.....	11 77	State
9601	Smith, George U., & ano..	12,468 00	6,656 03
9133	Smith, George W. L.....	156 66	156 98
8063	Smith, Mortimer	400 00	120 00
9863	Smith, Walter E., et al...	1,100 00	1,085 64
9734	Smith, William H.....	100 00	30 00
5756	Snow, H. E. A.....	29 23	State
8489	Snyder, Charles W.....	2,005 00	State
8495	Snyder, Henry B.....	1,729 00	State
5687	Spaith, Catherine	5 13	State
5688	Spencer, Sarah M., & ano.	8 26	State
9295	Sterling, Frank	240 00	80 00
9751	Stevens, Charles	1,004 50	114 50
9471	Stevens, George A.....	3,451 25	2,104 99
8491	Stilcs, Francis D.....	3,636 00	State
9635	Stolusky, Jacob, & ano....	631 25	90 00
5690	Stone, Jennie F., adm., &c.	5 42	State
5691	Stonewall, Matilda T.....	12 25	State
5692	Storer, Charles	24 12	State
5693	St. Patrick's Church So- ciety	12 78	State
5694	Strassner, Elizabeth, exec., &c.	94 08	State
8567	Streiff, John	919 00	State

No.	Name of Claimant	Claim	Judgment
5695	Stride, Elizabeth Cannon, adm., &c.	\$118 76	State
8492	Studer, Eliza A.	3,790 00	State
8566	Studer, John	1,201 00	State
9127	Swatling, James H.	132 25	\$107 25
5697	Swikehard, George B.	47 61	State
8505	Tafel, Ferdinand	1,102 00	State
9257	Taft, Henry N.	10,415 00	State
Affirmed: 139 App. Div. 924.			
8974	Taft, Henry C., & ano.	4,473 55	1,198 19
8501	Talbot, Michael	2,387 00	State
5698	Taylor, Thomas B., adm., &c.	7 04	State
9338	Telford, William H., & ano.	2,418 35	1,405 00
9292	Thompson, Charles W., et al.	2,077 50	583 90
8503	Thompson, John	2,852 00	State
8504	Thompson, William	1,188 50	State
9755	Tindall, Mary A.	3,110 80	1,658 32
8502	Tisse, John U.	566 00	State
5701	Toppel, Louisa Berger.	17 13	State
8415	Tosh, Henry	1,538 45	231 96
5702	Tower, William J., exec., &c.	9 83	State
8500	Townsend, Ingham D.	16,555 00	State
8832	Trumpfo, James, & ano.	3,860 20	286 04
8570	Tyner, George	845 00	State
8499	Tyner, Truman J.	992 00	State
5703	Uffelman, George P., & ano	66 73	State
5704	Vahne, Ezra F., & ano.	41 50	State
9545	Vail, Helen M.	2,462 90	160 00
8511	Van Amber, Melville.	6,872 00	State
9789	Van De Water, Cornelius.	196 60	107 50
5705	Van Ingen, John A.	152 77	State
8052	Van Valkenburgh, Emma P., exec., &c.	2,600 00	1,731 75

No.	Name of Claimant	Claim	Judgment
8267	Van Voorhees, James, et al	\$5,156 91	\$2,636 91
8572	Ver Schneider, Elizabeth.	880 00	State
9308	Vincent, Hattie A.	1,742 25	517 36
8571	Virkler, Christian V.	6,771 00	State
8510	Virkler, Jesse H.	5,018 00	State
8506	Virkler, Joshua J.	2,181 00	State
8509	Virkler, Michael B.	5,939 00	State
8507	Virkler, Michael B., et al.	4,348 50	State
8508	Virkler, Sidney	1,170 00	State
5706	Voogler, Fredericka	118 17	State
8518	Wagner, Charles N.	330 00	State
5707	Wagner, Emma L., adm., &c.	11 00	State
8513	Wagner, John	1,153 00	State
9217	Waite, Mary M., et al.	8,782 55	3,040 82
8515	Walseman, Frederick W. .	2,234 00	State
8519	Walseman, William	7,487 00	State
9175	Warehouse & Realty Co., & & ano.	12,000 00	6,207 00
5484	Warner, Andrew J.	1,701 02	State
5757	Wehle, Casper	10 71	State
5708	Wehn, Louis W., et al.	135 30	State
5709	Wehn, Louis W., exec., &c.	26 23	State
9099	Wells, Beecher	4,550 00	350 00
9723	Wells, Beecher	8,000 00	350 00
8516	Werner, Herman C., & ano.	1,499 00	State
8573	West, Emma H., & ano.	8,314 00	State
9757	Westbrook, Ida	500 00	407 19
5710	Westcott, J. Hobart, & ano.	26 72	State
8575	Wetmore, Andrew J.	655 00	State
8517	Wetmore, Charles E.	525 00	State
8514	Wetmore, Henry	1,970 00	State
8520	Wetmore, Jacob	1,885 00	State
5711	Whalen, James, & ano.	25 08	State
5468	Whalen, John I., adm., &c.	34 13	State
6759	Whalen, Mary	501 00	75 00
8801	Wheeler, Mary, et al.	1,829 55	846 18

No.	Name of Claimant	Claim	Judgment
5712	White, Martha J., adm., &c	\$29 01	State
5471	Whitney, James M., exec., &c.	1,638 83	State
5758	Wick, Christian, exec., &c.	26 36	State
8485	Wilder, Seth	2,241 00	State
8512	Wildrick, Joseph	1,122 50	State
8574	Williams, Abiah D.	5,377 50	State
5713	Williamson, Martin T., adm., &c.	106 32	State
5753	Willis, Harriet S., exec., &c	22 52	State
5714	Willis, Sarah L.	67 87	State
5715	Woodruff, Thomas	67 61	State
5759	Woodward, Homer H.	6 89	State
9567	Worthing, Charles E.	65 00	\$65 00
9136	Wright, Charles T., & ano.	35,702 00	15,977 70
5760	Youle, Oliver A.	8 77	State
8521	Zahn, Augusta	1,575 00	State
8522	Zecher, William	734 00	State
5716	Zeeveld, Peter, & ano.	71 47	State
5717	Zimmer, John F., adm., &c.	14 67	State
5718	Zimmer, Katherine	45 08	State
5761	Zipkie, John	17 53	State

Number of claims filed from January 1, 1910, to January 1, 1911	545
Amount claimed in such	\$7,081,132 16
Number of claims disposed of from January 1, 1910, to January 1, 1911.	664
Amount claimed	\$2,850,842 21
Amount awarded	\$310,523 25

All of which is respectfully submitted.

THEODORE H. SWIFT,
A. J. RODENBECK,
CHAS. H. MURRAY,

Judges of the Court of Claims.

Dated, Albany, N. Y., May 1, 1911.

APPENDIX III

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**OPINIONS OF THE
COURT OF CLAIMS
IN 1910**

[143]

OPINIONS OF THE COURT OF CLAIMS IN 1910

PURL D. HUNT *v.* THE STATE OF NEW YORK

Claim No. 9030.

When State not liable for Act of Independent Contractor.

Where claimant's property is flooded by the construction of a cofferdam by a contractor, the flooding resulting from the manner in which the contractor did his work and not arising necessarily out of the contract itself, the contractor and not the State is liable, his relation being that of an independent contractor. The rule is well settled that there is no liability on the part of the State for acts similar to those referred to where it enters into a contract with a competent contractor, doing an independent business, who agrees to furnish materials and labor and make the entire improvement according to specifications prepared in advance for a lump sum or its equivalent, even when it reserves the right to change, inspect and supervise to the extent necessary to produce the result intended by the contract, provided the plant is reasonably safe, the work is lawful and is not a nuisance when completed and there is no interference therewith by State officers which results in injury.

(Decided November 22, 1909.)

Hugo Hirsch, for claimant.

The Attorney-General, for the State.

RODENBECK, J.— In this and some other claims in its vicinity along the Hudson river, an item is included for flooding due to the construction of a cofferdam by the contractor, in connection with the work of constructing a dam across the Hudson river. For this item the contractor and not the State is liable. The flooding resulted from the manner in which he did the work and did not arise necessarily out of the contract itself. His relation to the State was that of an independent contractor and the rule is

Hough v. State of New York.

well settled that there is no liability on the part of the State for acts similar to those above referred to where it enters into a contract with a competent contractor doing an independent business who agrees to furnish necessary materials and labor and make the entire improvement according to specifications prepared in advance for a lump sum or its equivalent even when it reserves the right to change, inspect and supervise to the extent necessary to produce the result intended by the contract, provided the plan is reasonably safe, the work is lawful and is not a nuisance when completed and there is no interference therewith by state officers which results in injury. (*Uppington v. City of New York*, 165 N. Y. 232; *Berg v. Parsons*, 156 N. Y. 109; *Hexamer v. Webb*, 101 N. Y. 377; *Kelly v. City of New York*, 11 N. Y. 432; *Deming v. Term Ry. of Buffalo*, 169 N. Y. 1.) Under this rule no allowance should be made to the claimant for the flooding of his land and the damages occasioned thereby resulting from the construction of the cofferdam during the progress of the work and before its acceptance by the State.

DAVID L. HOUGH v. THE STATE OF NEW YORK.*

Claim No. 9344.

Claim for Compensation Under a Contract for Expert Testimony.

A retainer, in its legal sense, is a sum of money paid to secure the services of the person to be employed, and the sum named as a retainer is due as soon as the person retained accepts the employment.

Where an expert, under a contract with the Attorney-General to give certain testimony in the so-called Consolidated Gas Case was to receive a stated amount as a retainer and another sum per day while actually engaged, as a preliminary to such testimony examined the testimony of an expert for the Gas Company, but failed to give testimony of material benefit to the State as he had promised to do under the contract, he was entitled to recover the sum named as a retainer, said sum becoming due when he accepted the testimony of the Gas Company's expert to examine, and began his work, said retainer being a fixed sum, separate from his daily compensation, and in no

* Reported in 68 Misc. 26; 124 N. Y. Supp. 878.

Opinion by Swift, P. J.

way dependent upon his future work, or what the result of that work might be; but he was not entitled to recover the sum per day.

RODENBECK, J., dissenting.

(Decided December 22, 1909.)

Kellogg and Rose, for Claimant.

The Attorney-General, for the State

SWIFT, P. J. The claimant seeks to recover for services rendered at the request of the Attorney-General, and under a contract made with him as an expert witness in the so-called Consolidated Gas Case.

One of the questions in that case was, whether the Consolidated Gas Companies could manufacture gas at 80 cents at a fair profit. The gas companies had given a large amount of testimony as to the value of its property invested in that business as bearing upon the question of the cost of production. The Attorney-General, and the counsel acting for him, thought it very material and important to show that the value placed upon its property by the gas company was fictitious and very materially higher than the real value. To show that the values put upon its property by the gas company were much in excess of its real value, the Attorney-General, who was a party to the litigation, sought to obtain the testimony of expert witnesses who could testify that the testimony given by the expert Mayer, who was called by the gas company as to values of its property, had placed too high an estimate upon the value of the property. Mr. Kirby, who was one of the counsel representing the Attorney-General, was referred to the claimant herein as an expert upon the value of such property, and communicated with him by letter which led to a personal interview about the first of October, 1906. Mr. Kirby stated to the claimant in substance the point they desired to establish, and said he had a copy of some of the testimony of the Gas Company's expert, Mr. Mayer, and would have more shortly, and wanted to know of claimant whether he would take the testimony

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and go over it and let Mr. Kirby know if he could give a value to this property substantially less than that given by Mr. Mayer, and also that they wanted the claimant to prepare an estimate of the cost of construction of an ideal modern plant, with a capacity equal to all the present plant of the Consolidated Gas Companies. The claimant said, "He could not say offhand whether he could testify that the value given by Mr. Mayer was higher than it should be, that he wanted an opportunity to go over the testimony." In this interview claimant stated in answer to a question by Mr. Kirby, that his terms would be a retainer of one thousand dollars (\$1,000.00), and fifty dollars (\$50.00) a day while actually engaged. To this Mr. Kirby assented. Some time afterwards claimant stated to Mr. Kirby that he had looked over the testimony of Mayer and that he would be able to make an appraisal of this property of the Consolidated Gas Company which would be materially lower than that of Mr. Mayer. The terms of employment were again mentioned. The next day after this interview Mr. Kirby received a letter from claimant putting into writing the terms of his employment. To which Mr. Kirby replied, that it was satisfactory and as he understood it. These two letters furnished the only written evidence of a contract. Claimant contends that the two letters made a complete contract without any reference as to what testimony he should give. The State contends that it was a part of the agreement, and the very foundation of the contract that claimant would and could make an appraisal of the property and testify to the correctness of the same that would materially reduce the value of the property as testified to by Mr. Mayer.

I am of the opinion that the contract was, that the claimant should and would make an appraisal and testify to values that would be of material benefit to the Attorney-General, otherwise, there was no inducement to employ the services of the claimant, and I am of the opinion that claimant did not perform this part of the contract. There was only a reduction of about ten per cent in the appraisal made by claimant from that of the witness Mayer, and this made so slight a difference in the cost of produc-

Dissenting Opinion by Rodenbeck, J.

tion of gas by the Consolidated Gas Companies, that it was of no material benefit to the Attorney-General, and claimant was not called as a witness.

But, upon the facts as claimed by the State, I am of the opinion that the claim should not be wholly dismissed. According to the testimony of the State's witnesses, claimant could not say what he could testify to, or what his appraisal might be until he had gone over the testimony of the expert of the Gas Company. There was a mass of this testimony, and Kirby says, that he gave claimant a copy of part of the testimony to go over at the first interview, and at that time claimant stated that he would require a retainer fee of one thousand dollars (\$1,000.00), and fifty dollars (\$50.00) a day while actually engaged in making the appraisal and in testifying as an expert, to which Kirby assented.

A retainer in its legal sense is a sum of money paid to secure the services of the person to be employed. This sum was due as soon as the claimant accepted the employment. It is a fixed sum separate from his daily compensation, and I am of the opinion that he is entitled to this amount when he accepted the testimony of Mayer to examine and began his work. The retainer was in no way dependent upon his future work, or what the result of that work might be.

I am of the opinion that claimant is entitled to an award against the State in the sum of one thousand dollars, and in addition thereto the sum of three hundred and fifty dollars (\$350.00) for disbursements made for accountants with the consent of the State.*

Murray, J., concurs; Rodenbeck, J., dissents.

RODENBECK, J. (dissenting). This claim is one to recover compensation as an expert in litigation involving the constitutionality of the so-called Eighty Cent Gas statute. The validity of the statute was attacked by the Consolidated Gas Company and expert evidence was introduced in the case on the part of the company

* Judgment reversed and new trial granted in 145 App. Div. 718; 130 N. Y. Supp. 407.

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showing among other things the value of its plant as bearing upon the question as to whether or not the company could profitably manufacture and sell gas at eighty cents per thousand cubic feet. The Attorney-General was a party defendant in this litigation and sought to meet the issues by showing that the valuations placed upon the plants by the company's experts were excessive and exaggerated. The claimant insists that his contract is embraced in a letter sent by him to the State's counsel the terms of which were accepted in a letter in answer thereto, while the State claims that the letter merely expressed a part of an oral agreement preceding the writing of the letter. Under the letter the claimant insists that he was to receive certain compensation for "examining, appraising, consulting and testifying" without any specification as to what his testimony should be and the State urges that the real contract made between the parties was that the claimant should testify to valuations substantially less than those produced in evidence on behalf of the Consolidated Gas Company.

The case opens with a letter from the State's counsel, Gustavus P. Kirby, to David L. Hough, the claimant, written to the latter, September 20, 1906, while the claimant was in the Adirondacks, asking whether or not he would accept a retainer from the State and become a witness in the pending gas litigation and become "one of our experts." The claimant replied to this letter by another dated the following day in which he says: "At present I can see no reason why I may not serve you" and states that he would see Kirby immediately upon his return. The claimant returned to New York about October 1st and on the following day had his first conversation with Kirby with reference to the gas litigation. In the course of this conversation Kirby stated to the claimant: "Now, what Senator Page and I are looking for is a man who can qualify as an expert and who can go on the witness stand and honestly and aggressively testify that in his opinion the appraised values of the Consolidated Gas Company's plants, as given by Mr. Mayer and the other experts for the company, are greatly in excess of their value; I have here some of the type-written testimony and will have more of it shortly but I want

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to know, Mr. Hough, whether or not you will take this testimony, go over it, and then let me know if you will appraise the plants and give to them a value substantially less than that given to them by Mr. Mayer," (Sten. Min. p. 12) to which Kirby says the claimant replied: "That he couldn't say, offhand, whether or not he could testify, that the values given by Mr. Mayer were greater than they should be; that he would like an opportunity of going over the testimony and would thereafter inform me whether or not he would be willing to testify for the State in the manner which I had requested." (Sten. Min. p. 13.) Other conversations followed between October 2 and October 6 in one of which the claimant said: "Well, Mr. Kirby, I have had an opportunity to examine enough of Mr. Mayer's testimony to be able to state that I can make an appraisal of the plants of the Consolidated Gas Company, which will be materially less than that of Mr. Mayer's," to which Mr. Kirby replied: "I am very glad, Mr. Hough, but do not let us have any misunderstanding about this, we don't want any slight reduction because, you can well realize, a few hundred thousand dollars more or less on the value of the plants makes very little difference in the case of a thousand cubic feet of gas"; to which according to Kirby, the claimant answered: "No, I mean a material, substantial reduction." (Sten. Min. p. 15.) On cross-examination Kirby further stated: "I will give the conversation Mr. Kellogg, of my best recollection; it was a conversation between Mr. Hough and myself relating to what the reduction should be so that I said to Mr. Hough that the testimony of the State's witness as to the cost of the plants must be so much less than that of Mr. Mayer's as to have the difference represent several cents difference in the cost of gas per thousand cubic feet." (Sten. Min. p. 17.) The terms of payment were also mentioned in this conversation. Kirby swore that the claimant said: "That his terms would be a retainer fee of one thousand dollars and fifty dollars for each day that he was actually engaged in the work and at the interview which I have now just testified to, Mr. Hough again made reference to his terms of employment, stating that it was his understanding that that should be as we

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have just stated. I said, 'Yes, Mr. Hough, that is my understanding but I want to know what you mean by fifty dollars a day; some men mean fifty dollars whether they work on a case a part of a day or whether they work all the day.' He said, 'Oh, no, I don't mean anything like that; I mean for a full day's work.' I said, 'All right, as far as the payment was concerned and as far as your services are concerned, I am well satisfied and very happy, because I feel you and I can work together and I feel we can win this case.''' (Sten. Min. p. 15.) This constituted the oral contract.

These conversations were followed October 6 by a confirmatory letter from the claimant to Kirby in which the former undertakes to state the terms of the oral agreement from which there is an omission entirely of the agreement on the part of the claimant to testify to valuations substantially less than those of the Consolidated Gas Company's witnesses. The letter says:

"I am to serve you as one of the State's expert witnesses in appraisal of the Consolidated Gas Company's plant and properties other than real estate, and be prepared to answer such other questions as my knowledge may permit; on the basis of a retainer of one thousand dollars (\$1,000), and fifty dollars (\$50) per day for services while engaged upon the work of examining, appraising, consulting and testifying; it being understood that the minimum days to be charged shall be (10). In addition to the above, I am to be reimbursed for any expenses to which I may be put. The terms of payment to be \$1,000 down, and the remainder at such time as may be convenient; naturally, with the understanding that I may collect as against the State should the Legislature fail to pass the necessary appropriations. Will you kindly deliver to bearer the package of testimony that I am to take with me to-day?" (Sten. Min. p. 12.)

On October 8th, Kirby replied as follows:

"In reply to your communication of Oct. 6th, I have to say in behalf of the Attorney-General of the State of New York that the terms and conditions set down therein are in accordance with my understanding and are satisfactory. There is some little formality to be gone through with before the \$1000 is paid down; but as soon as you return I will put the necessary vouchers to be signed before you, and the amount should be forthcoming within a few days thereafter." (Sten. Min. p. 13.)

Then follows various letters from Kirby to the claimant and claimant to Kirby from October 12 to November 15 relating to

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the retainer mentioned in the letter of October 6th and relating to inventories and other matters connected with the gas litigation. The claimant did not receive the retainer specified in the agreement between him and the State but waived its advance payment and proceeded to examine the plants involved in the litigation and prepared estimates of their value, a summary of which in an incomplete form he submitted to Kirby in a letter dated November 4th. On that date he wrote to claimant saying: "I believe that when the plant is finally totalled, my figures will be between ten and twelve and one-half per cent below Mayer's figures" (Sten. Min. p. 47), but a reading of the entire letter shows that these figures were only tentative and not sufficient to justify the State in passing upon the question of the fulfillment of the contract at that time. In a letter to Kirby dated November 12th he presented an incomplete estimate of an ideal plant.

On the day previous to the day set for the hearing sometime in the latter part of November, 1906, the claimant, Kirby and Alfred R. Page who also represented the State had a final conversation with the claimant with reference to his testimony. Kirby testified with reference to this meeting: "The last interview was had, as I said, on a Sunday morning. I do not remember the day, but I could place it because it was the day before or the Sunday before the time set by the Court for the testimony by the State on this point to be presented and Senator Page and I met Mr. Hough in his office and I said to Mr. Hough, 'Mr. Hough, the Senator and I are here; we have been trying very hard to get you for the last several days and have been unable to do so, and we regret you felt compelled to put the appointment off until this day because it should give us too little time to go over your appraisal and to know just what your testimony is going to be.' Mr. Hough stated, 'Well, I have completed my work' and he then showed us a statement which, to my best recollection, gave the total value." (Sten. Min. pp. 20, 21.) The attention of the claimant was called to the fact that he had included in his estimates of value certain obsolete or abandoned apparatus and that his estimate was only about 10 per cent below that of Mr. Mayer,

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one of the Gas Company's witnesses. To this criticism the claimant according to Page stated "that the things were there and the Consolidated Gas Company had paid for them and therefore he had allowed their reproduced cost." Page further testified: "We had considerable argument on the subject, he taking the attitude that even though they were obsolete and would not be reproduced in a modern plant, but notwithstanding as the gas company had them that they were entitled to credit for them. * * * When I was talking, during the end of this discussion with Mr. Hough in regard to his testimony, I told him that his testimony in the present condition would be absolutely valueless; that we might as well leave the testimony stand with Mayer's testimony as to put in his and he then said he was no damned anarchist and I wanted to know if he implied that I was and he said, 'I won't join in any anarchistic raid upon this company', therefore I said to Mr. Kirby we better drop everything" and walked out. (Sten. Min. p. 73.) To this comment Kirby testified he said: "Why, Mr. Hough, that is no attitude for you to take; you were to be a witness in this case for the State of New York and not for the Consolidated Gas Company and your attitude is certainly not that of a willing witness, but on the contrary it is that of a hostile witness,—we can't permit you to testify with the figures you have given and attitude you have shown here at this conference." (Sten. Min. p. 22.) The claimant testified that in the course of this conversation he stated to Page: "I said I was a practicing engineer and had some regard for my reputation; that I was no damned anarchist and would not cut that estimate down below what I thought it was worth. Senator Page wanted to know if I called him an anarchist and I said I didn't but I was not employed to make a case for the gas company; I was an expert, made my estimate in an honest way and they could use it or not as they saw fit." (Sten. Min. p. 93.)

The claimant presented himself at the hearing ready to testify but was told that his testimony was of no value and that he would not be put on the witness stand. In a subsequent conversation with him Page said: "I told him I should not call him; could

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not use him and he then asked the reason and I told him to be very frank I thought that his interests or relations were too close to the Consolidated Gas Company and I should not use him as a witness." (Sten. Min. p. 74.)

These are substantially the facts upon which the court is called upon to say what contract was made between the State and the claimant and whether or not he has fulfilled his contract so as to entitle him to the whole or any part of the amount demanded in his claim.

At the very outset we are met with the argument that the contract between the claimant and the State, the authority for the making of which is not disputed, was expressed in the letter dated October 6th sent by the claimant to Kirby and that the oral evidence introduced relating to a parol agreement to testify to valuations substantially lower than those of the Gas Company's experts was improperly received. In this contention the claimant overlooks the fact that the so-called written agreement does not embody all of the oral agreement which had been previously made. In the conversations prior to October 6th it was distinctly agreed that the claimant was to furnish expert evidence of valuations which were to be substantially less than those testified to by Mr. Mayer, one of the Gas Company's witnesses. Kirby was particular to impress upon the claimant that the valuations testified to by the State's witnesses must be "so much less than that of Mr. Mayer's as to have the difference represent several cents difference in the cost of gas per thousand feet." (Sten. Min. p. 17.) That was what was meant by a substantial reduction in the valuations and was clearly understood by the claimant who stated according to Kirby's testimony that he could make "an appraisal of the plants of the Consolidated Gas Company which will be materially less than that of Mr. Mayer's." (Sten. Min. p. 14.) This part of the oral agreement was not inserted in the so-called written agreement and parol evidence showing this portion of the agreement was admissible upon the principle of law that where the original contract is verbal and only part is reduced to writing the remainder may be shown by oral evidence.

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The general rule requires the rejection of parol evidence when offered to cut down or take away obligations entered into between parties and by them put in writing but it does not apply where the original contract is verbal and entire and a part only is reduced to writing (*Chapin v. Dobson*, 78 N. Y. 74; *Juillard v. Chaffee*, 92 N. Y. 529; *Schmittler v. Simon*, 114 N. Y. 176; *Condit v. Cowdrey*, 123 N. Y. 463; *Routledge v. Worthington Co.*, 119 N. Y. 592).

The rule applicable to written instruments is very clearly set forth in *Thomas v. Scutt*, 127 N. Y. 133. "It is a general rule that evidence of what was said between the parties to a valid instrument in writing either prior to or at the time of its execution can not be received to contradict or vary its terms" but where a written contract is not complete evidence is permitted "not to contradict or vary but to complete the entire agreement of which the writing was only a part."

In *Chapin v. Dobson*, 78 N. Y. 74, there was apparently an entire contract expressed in writing but one of the parties was permitted to show that at the time that the written contract was made it was agreed orally that the machines mentioned in the contract should be made so that they would do the defendant's work satisfactorily because as stated in the headnote "the original contract was verbal and entire and a part only was reduced to writing."

In *Rutledge v. Worthington Co.*, 119 N. Y. 592, a written contract had been made for the purchase of certain publications. The defendant was allowed to prove by oral evidence that plaintiff agreed in consideration of the purchase and as a part of the agreement that the trade price at which the publication had been sold should not be lowered. Judge Gray said: "The rule which rejects parol evidence, when offered with respect to a contract between parties and put into writing, has no application to a case like this, where, of the original agreement which has been executed, a part only is in writing and the rest was verbal."

In *Leary v. Moore*, 48 Misc. 551, in an action for the price of lumber, it appeared that upon the day after an oral order for

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the lumber was given, a letter was written in which it was stated that the lumber would be furnished for \$23.50 per thousand feet. Upon the trial evidence was excluded tending to show that this figure was an error and that the oral contract was for \$22.50 per thousand feet. This ruling was held to be erroneous on appeal, the court holding:

"The statement of the terms of an oral agreement for the purchase of lumber, contained in the written confirmatory letters or memoranda of one of the parties thereto, does not bind the writer; but he may show what the real contract was and, in so doing, may contradict or supplement the writings." (Headnote.)

In *Lichtenstein v. Rabolinsky*, 75 A. D. 66, it was held that:

"Where, after the making of a verbal contract for the sale of a carload of busheling scrap, the vendor on the same day writes a letter to the vendee stating: 'We acknowledge sale to you this day of one car Busheling for Thirteen (\$13.00) Dollars per net ton and shall be glad to have your confirmation of your said purchase. Delivery at once,' and upon the following day the vendee writes a letter to the vendor stating: 'This confirms purchase made Jan. 15th, 1900, by Mr. Lichtenstein of Mr. Harry Rabolinsky of one car load of Busheling Scrap at \$13.00 net ton delivered on cars. Hoping this is satisfactory, we remain,' such letters do not constitute a complete written contract, fixing the rights of the parties and rendering incompetent evidence that the verbal contract of sale embraced an express warranty as to the quality of the scrap to be delivered." (Headnote.)

In *Perry v. Bates*, 115 A. D. 337, the court held that when letters written between contracting parties purport merely to confirm the terms of a prior oral agreement the letters are not controlling as to the terms of the contract, which may be shown by oral evidence which supplements or apparently contradicts the letters, and Judge Scott writing the opinion says:

"It is a common experience in ordinary business life that parties come to an oral agreement, and that subsequently, one or both of the parties write confirmatory letters. In such cases it is considered that the oral agreement constitutes the real contract between the parties, and that the letters are to be treated merely as evidence of what had previously been orally agreed upon, and the rule is that the parties are not to be held bound by the statement of the terms of the contract as stated in the written confirmatory letter or memoranda, but may show what the real contract was, even if in so doing it may be necessary to supplement or apparently contradict the written paper." (p. 341.)

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In *Brigg v. Hilton*, 99 N. Y. 517, an action was brought to recover the price of certain cloths and plaintiff put in evidence a writing from the defendant acknowledging the receipt of an order for the goods stating the time of delivery and the price, and thereafter objected to any oral testimony on the part of the defendant tending to prove a warranty of the goods, on the ground that the order contained the contract between the parties. The Court of Appeals held that: "The objection was untenable; that the writing did not estop defendant from proving a parol warranty as to quality, as it was a mere memorandum and not the contract between the parties; that even if the writing be construed as embodying a part of the contract, and thus conclusive as to such part, parol evidence was admissible to show the rest." (Head-note.)

In the light of these cases and of very many others of like tenor to which it is not deemed necessary to refer specifically (*Juillard v. Chaffee*, 92 N. Y. 529; *Medical College Lab. v. N. Y. University*, 76 A. D. 48; *Brantingham v. Huff*, 43 A. D. 414; *Gibbons v. Bush Co.* 52 A. D. 211; *Indelli v. Lesster*, 130 A. D. 548; *Studwell v. Bush Co.*, 126 A. D. 818), it seems clear that the contract made with the claimant was that he should make an examination of the plants of the Gas Company and testify to valuations substantially lower than those of the company's experts. He claims that he could not have made such a contract at the time stated because it was not possible for him between October 2, when he had his first conversation with Kirby and October 6th, when his letter was written to Kirby stating the terms of the alleged contract, to have made an appraisal sufficient to say whether or not his estimate would be substantially less than that of the company's experts. The answer to this position is that if that was a fact he should not have entered into the contract until he could have so determined because as a man of experience he must have known that his testimony was desired to offset that introduced on behalf of the company. When he was approached by Kirby he was told that his services were desired as an expert by the State and he knew that the State was endeavoring to sustain the legality of the eighty cent gas statute and that to do so

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it was necessary to introduce evidence of valuations substantially lower than those put in evidence by the gas company. He did not at the first interview agree to testify but said that he would like an opportunity to consult with his friends for "possibly it would be wise for me not to testify." (Sten. Min. p. 84.) If his valuations were not to be substantially less than those of the company's experts the question of expediency would not have entered into the matter. In his redirect examination he was asked whether he had made the statement as testified to by Kirby that the claimant had had an opportunity to examine the matter sufficiently to state that he could make an estimate materially less than that of Mayer and he replied: "I did not know at that time whether I was going to testify or not; I wanted to see first what he wanted me to do," (Sten. Min. p. 89) showing that the claimant knew what was expected of him when he entered into the contract. The claimant further stated: "Mr. Kirby told me he considered the figures put in by the gas company exorbitant and extravagant and I don't remember the exact words and he hoped I would be able to make them lower" (Sten. Min. p. 90) to which he replied: "I didn't know whether I would accept the employment" (Sten. Min. p. 90) indicating that he knew that he was to produce testimony to offset that introduced by the gas company and that he was considering the matter in order to enable him to determine whether or not he could conscientiously swear to valuations that would be of material assistance to the State.

It is apparent that the agreement between the parties was that the claimant should testify to valuations substantially less than those of the gas company's experts and this he failed to do. The estimate of Mayer whose testimony claimant examined at length was \$16,098,893 and claimant's final estimate was \$14,359,827, making a difference of only \$1,639,066, or about 11 per cent less than Mayer's estimate. This did not mean a sufficient reduction in the valuation of the plant so as to represent "several cents difference in the cost of gas per thousand cubic feet." (Sten. Min. p. 17). When confronted in the final interview by the fact that

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his estimate would have no effect practically upon the price per thousand cubic feet of gas and that it was practically Mayer's estimate, claimant replied: "What do you think I am; I am not any damned socialist anyhow, trying to hit this Consolidated Gas Company crowd over the head." (Sten. Min. p. 22.)

The claimant is clearly not entitled to recover anything for compensation under the agreement as it has been found to exist. The contract is an entire one and upon its breach the claimant forfeited not only the stipulated sum per day which he was to be paid but also the retainer. There is no rule of law which in the absence of an agreement allows an expert a retainer fee merely to keep him from the other side. It is all a matter of contract. In this case there was no agreement that the retainer was to be paid in any event merely to keep the claimant from the other side but rather that it should form a part of the compensation to be allowed the claimant. In *Tenney v. Berger*, 93 N. Y. 524, Judge Earl, speaking of the compensation of an attorney says that where an attorney is retained to conduct a legal proceeding he enters into an entire contract and that in order to earn his compensation he must show full performance (*Bathgate v. Haskin*, 59 N. Y. 533; *Andrews v. Tyng*, 94 N. Y. 16; *Pickard v. Pickard*, 83 Hun 338; *Severance v. Bizallion*, 121 N. Y. S. 627).

The item for disbursements amounting to \$350 for services of F. H. Guenther and E. S. Rue in estimating quantities, buildings, etc., and tabulating and typewriting schedules, should be allowed. These persons were hired by the claimant to assist him pursuant to proper authority. He is responsible for the payment of the services and is entitled to recover the amount thereof.

There was a sufficient appropriation available at the time of the making of the contract with the claimant to satisfy his claim. The appropriations for the year 1906 became available on the first day of October and the statement submitted by the State Comptroller shows that there were abundant funds subject to the control of the Attorney-General to justify the contract made with the claimant and to pay for any services legally recoverable thereunder. (Sten. Min. p. 6.)

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The claimant therefore should have an award for \$350 with interest thereon from the date of the payment of the disbursements.*

WILLIAM J. LOGAN v. THE STATE OF NEW YORK.

Claim No. 9542

Claim for Services as an Expert Witness in a Litigation Against the State.

The State has placed limits upon the power of its officers to contract and incur indebtedness on its behalf. (Executive Law, § 62; State Finance Law, § 35; *Chase v. United States*, 44 Fed. R. 732, affd. 155 U. S. 489; *Dillon on Municipal Corporations*, 4th ed., § 455; *McDonald v. Mayor of New York*, 68 N. Y. 27; *Throop on Public Officers*, § 551; *Mechem on Public Officers*, § 535.)

The State may ratify the unauthorized acts of its officers within the limits of constitutional restrictions. (*Dillon on Municipal Corporations*, 4th ed., § 463; *O'Hara v. State*, 112 N. Y. 146.)

Where the Attorney-General entered into a contract with an expert witness to testify in a litigation against the State the expense of which exceeded the appropriation made for his use for such purposes, his unauthorized acts will be deemed to have been ratified by the State by the passage of a statute making appropriations to meet the expense of such expert testimony. (L. 1907, ch. 578, p. 1321.)

(Decided May 10, 1910.)

STATEMENT

The claimant was an expert witness in a litigation brought against the State by the Consolidated Gas Company of New York city to test the constitutionality of the so-called eighty-cent gas statute. A contract was made with him by Attorney-General Mayer but no compensation was agreed upon. At the time that the contract was made there was not a sufficient appropriation available to warrant the making of the contract but after the expiration of Attorney-General Mayer's term of office the legislature passed an appropriation act to meet the expense of the litigation down to the close of his term. The claimant testified during the year 1906 and it was claimed that his contract was validated by the appropriation act. The claim is for \$5,000.

Other facts appear in the opinion.

* See note on page 149.

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Kellogg and Rose, for claimant.

The Attorney-General, for the State.

RODENBECK, J. The claimant was an expert witness for the State in litigation involving the constitutionality of the so-called eighty-cent gas statute.

This litigation was brought in the United States Circuit Court for the Southern District of New York by the gas company against Julius M. Mayer, the then Attorney-General of the State and others.

The suit was referred to a special master and testimony was taken from July 16, 1906 to April 2, 1907.

The gas company undertook to show by the valuation of its plants that a reduction of the price of gas to eighty cents per thousand cubic feet was confiscatory and offered proof along that line. The State endeavored by valuations of the plants of the company to show that gas could be manufactured at a profit at the rate specified in the statute.

In order to sustain its contention Attorney-General Mayer made a contract with the claimant whereby he was to testify as an expert on behalf of the State. No agreement was made with him as to the price that was to be paid for his services and a dispute having arisen this claim has been filed to determine among other questions the value of his services.

Witnesses called on behalf of the State testified that the twenty-five days services performed by the claimant were worth from \$1,000 to \$1,200 (Sten. Min. p.38) while those called on behalf of the claimant swore that the services were worth \$5,000 or more. While the State has placed limits upon the authority of its officers to contract and incur indebtedness on its behalf (*Executive Law*, § 62, *State Finance Law*, §35; *Chase v. U. S.*, 44 Fed. Rep. 732; *affirmed* 155 U. S. 489; *Dillon on Municipal Corporations*, 4th ed., § 445; *McDonald v. Mayor of N. Y.*, 68 N. Y. 27; *Throop on Public Officers*, § 551; *Mechem on Public Officers*, § 537), it may ratify the contract provided it is not void under the Con-

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stitution (*Dillon on Municipal Corporations*, 4th ed., § 463; *Throop on Public Officers*, § 551; *Mechem on Public Officers*, §§ 535, 543; *O'Hara v. State*, 112 N. Y. 146; *Mayor etc. of New York v. Davenport*, 92 N. Y. 604; *Farmers Loan & Trust Company v. Walworth*, 1 N. Y. 434; *Tallman v. Kimball*, 74 Hun 279), and the contract in this case was ratified by the State. The services in the claim were performed during the term of Attorney-General Mayer, that is, prior to January 1, 1907, and this expense connected with the gas litigation was ratified by the special appropriation made during the following year with full knowledge on the part of the State of the acts of Attorney-General Mayer in engaging the claimant. This ratification act is an appropriation "for the payment of services and disbursements authorized and expenses incurred by the Attorney-General pursuant to law prior to January 1, 1907, in the actions in the Circuit Court of the United States for the southern district of New York brought to restrain the officers charged by law with the execution of the provisions of chapter 125 of the Laws of 1906, \$47,854.97." (L. 1907, ch. 578, p. 1321) This is a general appropriation and was intended to include any claim that the claimant might have. The fact that he was not paid out of the appropriation does not vitiate the effect of the appropriation as a ratification of his contract.

The State having thus ratified the employment of the claimant (*Mayer, etc., of New York v. Davenport*, 92 N. Y. 604; *Tallman v. Kimball*, 74 Hun 279; *Dillon on Municipal Corporations*, 4th ed., § 464), the only question that remains is as to the value of his services.

In another contract made through the Attorney-General's office and another expert on values, it was agreed that the latter should receive the sum of \$1,000 as a retainer and \$50 a day for services performed in connection with the litigation. It appears from the report of the special master that the claimant was one of the best qualified witnesses called on behalf of the State. The litigation was very important and it was difficult for the State to procure competent experts. The claimant has performed his

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services satisfactorily and it seems fair to allow him the sum of \$75 a day for the twenty-five days devoted by him to the service of the State.

A judgment should be awarded the claimant for \$1,875 with interest thereon from December 1, 1906.

SWIFT, P. J., concurs.

FREDERICK S. FLOWER v. THE STATE OF NEW YORK.*

Claim No. 9450.

Claim for Amount of Excess Stamps Upon Stock Transfers.

The remedy against an erroneous tax or assessment which is not void for want of jurisdiction is an appropriate proceeding to review the tax or assessment.

An action cannot be maintained to recover an erroneous tax or assessment where the assessors had jurisdiction, and the tax or assessment is not void until the tax or assessment has been set aside in an appropriate proceeding by the party commencing the action, and even in such cases there must not have been a voluntary payment of the tax or assessment before the proceedings were brought.

An action may be maintained to set aside an illegal tax or assessment and to recover a tax or assessment paid thereunder, or, the tax or assessment having been set aside, to recover the tax or assessment paid, where the assessors were without jurisdiction and the tax or assessment was void, provided the payment was involuntary which is the case where the facts which rendered the tax or assessment illegal are outside the record and are unknown to the person paying the tax or assessment, or will not necessarily appear in any proceeding taken by the purchaser under a tax sale for nonpayment of the assessment to recover possession of the land, or where the payment is made through coercion of law or of fact.

An action cannot be maintained to recover an illegal tax or assessment even where the assessors were without jurisdiction and the tax or assessment was void where the payment was voluntary which is the case where it was made purely under a mistake of law by the payor or where the illegality is based upon facts which appear upon the face of the proceedings which the person paying the tax or assessment had knowledge of or is presumed to have had knowledge of or is based upon facts outside the record of which he had

* Judge Murray's opinion in this claim is reported in 65 Misc. 145; 121 N. Y. Supp. 96; but Judge Rodenbeck's opinion has not been previously published.

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actual knowledge and the payment is without compulsion, duress, fraud or misrepresentation on the part of the payee.

Where the statute providing for a state tax on stock transfers which is constitutional is amended by a statute which is unconstitutional and which imposes a higher rate of taxation, the payment under the later statute in excess of that legally authorized without any protest or coercion is a mistake of law and the payment is a voluntary one and the excess paid cannot be recovered by suit without express legislation authorizing such a suit.

Where a statute imposing a state tax upon stock transfers provides that the comptroller may refund the amount of stamps erroneously affixed and cancelled, a suit against the State can not be maintained until this remedy has been exhausted, unless expressly authorized by statute.

Where a statute conferring jurisdiction upon the court of claims provides that the court "has jurisdiction to hear and determine a private claim against the state" but that "the court has no jurisdiction of a claim submitted by law to any other tribunal or officer for audit or determination except where the claim is founded upon express contract and such claim or some part thereof has been rejected by such tribunal or officer," the language does not cover a claim like that of an erroneous or illegal state tax or assessment and does not authorize a submission of such a claim to this court.

(Decided January 3, 1910.)

Louis S. Phillips, for claimants.

The Attorney-General, for the State.

RODENBECK, J. This claim, which corresponds to an action in the ordinary courts of the State, was filed by the claimant to recover from the State certain amounts paid for stock transfer stamp taxes in excess of what was legally required.

The payment of the excess arose out of the following facts. In 1905 the State desiring to raise additional resources for the support of the State government passed an act entitled "An act to amend the Tax Law by providing for a tax on transfers of stock" being chapter 241 of the Laws of that year. The act added a new article to the general tax law and provided that there should be a tax upon stock transfers "on each hundred dollars of face value or fraction thereof, two cents." Adhesive stamps for the purpose of paying the State tax were to be prepared under the statute by the State Comptroller as might be required and were to be sold to those desiring to purchase them. Persons

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violating the statute were liable to a misdemeanor and subjected to other penalties.

The year following the enactment of this statute the Legislature intending to modify the amount of the tax provided that each person should pay "on each share of one hundred dollars of face value or fraction thereof, two cents" (L. 1906, ch. 414, § 315), and also added at the end of the section containing this language the provision that "the comptroller may, upon satisfactory proof that stamps have been erroneously affixed and cancelled in payment of the tax upon a transfer and to the loss of an innocent person, refund the amount thereof from appropriations made for necessary expenses under this act, provided the tax is justly paid upon such transfer" (L. 1906, ch. 414, § 315).

It will be observed that the only change made by the amendment of 1906 so far as the tax was concerned was to provide for a tax of two cents "on each share of one hundred dollars of face value or fraction thereof" instead of "on each one hundred dollars of face value or fraction thereof." With reference to this change the court of appeals said: "We think the intention was to tax the sale of all shares of the face value of one hundred dollars, and also all shares of the face value of any fraction of one hundred dollars. The structure of the sentence indicates the change in the unit of taxation from a certain amount of face value to a share, whether large or small. The theory that the Legislature intended to tax shares of the face value of one hundred dollars and leave all others untaxed, although plausible, impresses us as unsound." (*People ex rel. Farrington v. Mencshing*, 187 N. Y. 16.) The court held that this change was an arbitrary discrimination in favor of one as against another of the same class of persons and a violation of primary rights and as such unconstitutional and void but at the same time held that the statute being unconstitutional and void did not operate to repeal the original act of 1905 which continued in full force so far as the amount of the tax was concerned notwithstanding the amendment of 1906.

The claimants acting under the amendment of 1906 and con-

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struing it as the Court of Appeals said it should be construed affixed stamps to stock transfers upon the basis of two cents upon all shares of the face value of any fraction of one hundred dollars and thus paid from March 11, 1906, to February 1, 1907, \$3,478.93, in excess of the amount which was required to be paid under the act of 1905 to wit: "Two cents on each share of one hundred dollars of face value or fraction thereof." They applied to the Comptroller for a refund of the tax and were informed that he had no power to audit the claim and that there was no appropriation out of which the claim could be paid. Whereupon they sought relief from the Legislature, failing in which they filed this claim to recover the excess over the legal amount of the tax paid by them.

This claim therefore presents the question as to whether or not the claimants can maintain a suit against the State to recover the excess of stamps thus affixed and cancelled.

Under the common law, irrespective of any statutory provisions applicable to the claim, no recovery could be had under the facts of the claim as an examination of the cases bearing upon the subject will readily show.

In *Buffalo and State Line R. R. Co. v. Supervisors of Erie County*, 48 N. Y. 93, the land of the plaintiff was assessed as resident land and should have been assessed as non-resident land. The plaintiff commenced an action to recover the tax paid by it as for money had and received and it was held that the defect appeared upon the face of the proceedings and that consequently no action would lie, the proper remedy being by certiorari.

In *Newman v. Supervisors of Livingston County*, 45 N. Y. 676, the plaintiff was held to be entitled to recover but there was a compulsory payment of the tax which was collected by a levy and a sale under a warrant issued to a collector.

In *National Bank of Chemung v. City of Elmira*, 53 N. Y. 49, an assessment was levied upon the capital stock of the bank which assessment was void, the capital stock being exempt from taxation. It was held that the bank could recover the amount of the assessment but it appeared that the payment was a compulsory one, a warrant having been issued for the collection of the assessment

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and a levy having been made upon bank bills belonging to the plaintiff.

In *Peyser v. Mayor of N. Y.*, 70 N. Y. 497, the plaintiff was allowed to recover an assessment for a local improvement but it was held that the payment was not a voluntary one but was under coercion of law.

In *Strusburgh v. Mayor of New York*, 87 N. Y. 455, the illegality consisted of an item included in the expense for grading at seventy cents per cubic yard which was agreed to be done under the contract for forty-five cents a cubic yard. In this case the plaintiff brought an equity action to set aside the assessment and to recover the illegal excess, and was allowed to recover upon the ground that the defect was one which did not appear upon the face of the proceedings and was not known to the plaintiff when the assessment was paid and that the payment was therefore not a voluntary one.

In *Bruecher v. Village of Port Chester*, 101 N. Y. 240, the commissioners making the assessment did not take the oath required or publish a notice of the time and place for allegations as required by law. This was held to be a defect which rendered the assessment void for want of jurisdiction and not being known to the plaintiff at the time that the assessment was paid, authorized a recovery of the assessment on the ground that the payment was not voluntary.

In *Diefenthaler v. Mayor of New York*, 111 N. Y. 331, the assessment was prima facie valid but was rendered void by facts which were outside the record of which the plaintiff was ignorant and of which he could not have obtained knowledge by an inspection of the record which made the payment of the assessment an involuntary one and an action to recover the amount maintainable.

In *Mutual Life Insurance Company v. Mayor of New York*, 144 N. Y. 494, the assessment was void for want of jurisdiction, the facts making it void consisting of the inclusion of an item for rock excavation the expense of which was fixed by agreement instead of by competitive bidding as required by the statute which did not appear upon the face of the proceedings and was not known to the plaintiff when the assessment was paid.

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In *Tripler v. Mayor*, 125 N. Y. 617, the facts which rendered the assessment void were outside the record but were known to the plaintiff which made the payment voluntary and a recovery impossible.

In *Tripler v. Mayor*, 139 N. Y. 1, one of the chief issues was as to whether or not the plaintiff had knowledge of defects outside the record which rendered the assessment void. It was established upon the trial that she had no knowledge of the defects and she was held to be entitled to recover.

In *Vaughn v. Village of Port Chester*, 135 N. Y. 460, warrants for the collection of the tax had been issued to the receiver of taxes and upon their return a resolution had been adopted by the board of village trustees for the advertisement and sale of the property. To save the property from the sale the plaintiff paid the amount of the assessment under protest. The circumstances were held to amount to coercion at law justifying a recovery of the assessment upon proof that it was illegal.

In *Poth v. Mayor*, 151 N. Y. 16, the plaintiff paid the assessment after active legal proceedings had been instituted for its collection by the sale of his property and it was held that the payment was not to be regarded as a voluntary one but the result of legal compulsion.

Aetna Insurance Company v. Mayor, 153 N. Y. 331, is authority for the proposition that a tax void for want of jurisdiction may be recovered by suit where the payment is involuntary without previously having had the tax set aside by a proceeding for that purpose. In that case the plaintiff was taxed upon its personal property when in fact it was exempt. The assessors therefore had no jurisdiction over the company so far as its personal property was concerned and the tax was absolutely void. It was also found by the court that the payment was an involuntary one being made under such circumstances as amounted to an impounding or duress of plaintiff's property.

In *Phelps v. Mayor of New York*, 112 N. Y. 216, the illegality complained of appeared upon the face of the proceedings. The charter of the city of New York required work involving an

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expenditure of more than \$1,000 to be let after advertisement for sealed proposals by a contract to the lowest bidder unless otherwise ordered by a vote of three-fourths of the common council. The common council undertook to vest in the commissioner of public works by ordinance the discretion to determine how work in a certain case involving more than \$1,000 should be done. This attempt of the common council appeared upon the proceedings themselves and the facts therefore were presumed to be known and any payment of a tax or assessment based thereon was a voluntary one. Judge Gray said:

“The principle is elementary that a party cannot recover back money paid, upon the ground that he supposed he was bound in law to pay it.” (Page 219.)

In *Pooley v. City of Buffalo*, 122 N. Y. 592, the facts which rendered the assessment invalid appeared upon the face of the proceedings and it was held that a payment under such conditions was a mistake of law and voluntary and that an action to recover the amount paid would not lie.

In *Vanderbeck v. City of Rochester*, 122 N. Y. 285, the plaintiff sought to recover the payment made upon an assessment for the opening of a street which had never been opened. She merely had a dower interest in the land assessed and receiving notice that interest would be charged after a certain date, paid the assessment out of her personal funds. The assessment was payable out of the personal estate of her husband and having merely a dower interest she was under no obligation to pay the assessment. No steps had been taken looking to the sale of the land and having full knowledge that nothing had been done toward opening and working the street, it was held that there was no mistake of fact and no coercion and that the payment was voluntary and could not be recovered.

The case of *Boston Manufacturers' Mutual Fire Insurance Co. v. Hendricks*, 41 Misc. 479, is somewhat like the case at bar. In that case the tax was imposed under a statute which was void so far as the plaintiff was concerned but the payment of the tax being made voluntarily it was held that the company could not

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recover the amount paid. The claimant made the payment under protest that the statute was void and in fear that the State might thereafter sue it for the tax as well as for the heavy statutory penalties attendant upon the failure to pay the tax in time, but these facts were held not to avail the company as showing either coercion or an involuntary payment. Upon the subject of voluntary payments, Judge Herrick said:

“The general rule is that where money has been voluntarily paid to a person authorized to receive it, if collectible, upon a claim of right, where there is no misrepresentation or mistake of any fact, it cannot be recovered back.” (Page 436.)

Newburgh Savings Bank v. Town of Woodbury, 173 N. Y. 55, presents a case of the refusal of the courts to allow a recovery of moneys paid under a mutual mistake of law. In that case the town of Woodbury had issued bonds under an act which was declared unconstitutional. The plaintiff purchased some of these bonds and sought to recover the amount paid therefor from the town on the ground that the act under which the bonds had been issued was unconstitutional. The court said that the money was paid under a mutual mistake of law and that no recovery could be had. Judge O'Brien said:

“The rule in this state from the earliest times to the present day has been consistent and uniform in favor of the general rule that money paid under a mistake of law can not be recovered back.”

From this review of cases the following principles may be deduced:

The remedy against an erroneous tax or assessment which is not void for want of jurisdiction is an appropriate proceeding to review the tax or assessment.

An action can not be maintained to recover an erroneous tax or assessment where the assessors had jurisdiction and the tax or assessment is not void until the tax or assessment has been set aside in an appropriate proceeding by the party commencing the action (*Peyser v. Mayor*, 70 N. Y. 497; *Purssell v. Mayor*, 85 N. Y. 330; *Buffalo and State Line R. R. Co. v. Supervisors of*

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Erie County, 48 N. Y. 93), and even in such cases there must not have been a voluntary payment of the tax or assessment before the proceedings were brought. (*Tripler v. Mayor*, 125 N. Y. 630.)

An action may be maintained to set aside an illegal tax or assessment and to recover a tax or assessment paid thereunder or, the tax or assessment having been set aside as void, to recover the tax or assessment paid, where the assessors were without jurisdiction and the tax or assessment was void provided the payment was involuntary which is the case where the facts which rendered the tax or assessment illegal are outside the record and are unknown to the person paying the tax or assessment (*Bruecher v. Village of Port Chester*, 101 N. Y. 240; *Diefenthaler v. Mayor*, 111 N. Y. 331; *Strusburgh v. Mayor*, 87 N. Y. 452; *Mutual Life Ins. Co. v. Mayor*, 144 N. Y. 494; *Trimmer v. City of Rochester*, 134 N. Y. 76), or will not necessarily appear in any proceeding taken by the purchaser under a tax sale for non-payment of the assessment to recover possession of the land or where the payment is made through coercion of law or of fact (*Newman v. Supervisors of Livingston County*, 45 N. Y. 676; *National Bank of Chemung v. City of Elmira*, 53 N. Y. 59; *Peyser v. Mayor of N. Y.*, 70 N. Y. 497; *Bruecher v. Village of Port Chester*, 101 N. Y. 240; *Dale v. City of N. Y.*, 71 A. D. 231).

An action can not be maintained to recover an illegal tax or assessment even where the assessors were without jurisdiction and the tax or assessment was void where the payment was voluntary which is the case where it was made purely under a mistake of law (*Vanderbeck v. City of Rochester*, 122 N. Y. 285; *Newburgh Savings Bank v. Town of Woodbury*, 173 N. Y. 55) or where the illegality is based upon facts which appear upon the face of the proceedings which the person paying the tax or assessment had knowledge of (*Tripler v. Mayor*, 125 N. Y. 617; *Haven v. Mayor*, 67 A. D. 90) or is presumed to have had knowledge of (*Phelps v. Mayor*, 112 N. Y. 216; *Pooley v. City of Buffalo*, 122 N. Y. 592) or is based upon facts outside the record of which he had actual knowledge and the payment is without compulsion,

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duress, fraud or misrepresentation on the part of the payee. (*Cooley on Taxation*, 2nd Edn., p. 811.)

Applying these principles to the claim at bar it follows that at common law there would be no remedy. The claimants and the State were both mistaken as to the legality of the statute under which the excess of stamps was affixed. No protest was made by the claimants and there is no element of coercion involved. They purchased the stamps on the assumption that the statute of 1906 was valid and affixed them to stock certificates and canceled them. They were mistaken in the amount of stamps that were required. The mistake was theirs and not that of the State. While the statute provided for certain penalties, none were threatened and there is no claim that the additional stamps were affixed because of the fear of prosecution. Part of the stamps were lawfully affixed so that the entire tax was not illegal. Only the portion in excess of that required by the statute of 1905 was void. The claimants paid a larger tax therefore than the law required and paid it voluntarily. Under the foregoing cases and the principles to be deduced therefrom there can be no recovery under the principles of the common law applicable to analogous cases.

Claimants are in no better position to maintain the claim under the statutory provisions applicable thereto than they are under the principles of the common law. One of the statutes that affects them is that contained in the stock transfer tax amendment of 1906 which provides that "the comptroller may upon satisfactory proof that stamps have been erroneously affixed and canceled in payment of the tax upon a transfer and to the loss of an innocent person, refund the amount thereof." There is nothing in this statute that authorizes a submission of any claim to this court. It merely confers power upon the comptroller to pass upon a claim for stamps erroneously affixed and canceled subject to appropriations by the legislature. This was the construction placed upon the statute by the claimants who first presented their claim to the comptroller who refused to consider it because of want of authority. Instead of proceeding against the comptroller claimants filed this claim. In taking this course so far as the provision

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above quoted is concerned, they acted without authority. Their remedy was against the comptroller to compel him to act and in case of unfavorable action by him to review his determination.

It might be claimed however that this provision of the Transfer Tax Law is to be construed in connection with the provisions of the Code of Civil Procedure conferring jurisdiction upon this court and it becomes necessary therefore to examine the latter provisions.

The Code of Civil Procedure conferring jurisdiction upon this court gives it jurisdiction over "private claims" and it might be argued that the claim at bar has been recognized as a private claim by virtue of the provision of the amendment to the Transfer Tax Law of 1906 which authorizes the comptroller to refund stamps erroneously affixed to stock transfers. It might be urged that the language of the amendment to the Tax Law and that of the Code of Civil Procedure together constitute a consent of the State to have its liability in claims of this character determined. Such a construction would be contrary to well settled rules and would amount to judicial legislation. An excessive State tax paid like that in suit is in no sense a claim. A tax is not based upon any contractual relations between the parties and is not an obligation in the nature of a debt. It occupies a position peculiar to itself.

"Taxes are the enforced proportional contributions from persons and property levied by the state by virtue of its sovereignty for the support of government and for all public need." (*Cooley on Taxation*, 3rd Edn., p. 1.) "The person upon whom the demand is made or whose property is taken owes to the State to do what shall be his just proportion toward the support of government and the State is supposed to make adequate and full compensation in the protection which it gives to his life, liberty and property, and in the increase in the value of his possessions by the use to which the money contributed is applied." (*Id.*, p. 3.) "The power of taxation is an incident of sovereignty and is possessed by the government without being expressly conferred by the people." (*Id.*, p. 7.) "Taxes are not contracts between party and

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party either express or implied but they are the positive acts of the government through its agents, binding upon the inhabitants, and to the making and enforcing of which their personal consent individually is not required." (Id., p. 19.) These quotations are sufficient to show the general character of a tax as something different from the ordinary claim arising between individuals and bearing out the construction that the term "private claim" as used in the Code of Civil Procedure was not intended to cover a demand for excessive, erroneous or illegal taxes paid. So far as the language of the code has been under construction it has been held to cover a claim upon contract and upon tort (*Remington v. State*, 116 A. D. 522; *Quayle v. State*, 192 N. Y. 47), but it has not been extended to cover a demand of a public or semi-public character not in any sense arising out of contract or tort (*Cayuga County v. State*, 153 N. Y. 279.)

In construing the statutes relating to claimants' demand claimants are met with a further difficulty, namely, that the section of the Code of Civil Procedure conferring jurisdiction upon this court over private claims limits the court to claims that are not required to be submitted by law to any other tribunal or officer for audit or determination except where the claim is founded upon express contract and the claim or some part of it has been rejected by such tribunal or officer. (*Code of Civil Procedure*, § 264). If the claim at bar is not founded upon express contract the limitation upon the jurisdiction of the court above referred to applies and, as we have seen that the claim is not one based upon an express contract, the court is without jurisdiction if the claim is required by law to be submitted to any other tribunal or officer for audit or determination. Reference has been made to the provision of the Transfer Tax Law that claims of this character are required to be submitted to the comptroller and therefore even assuming that the claim is a private claim within the language of the Code of Civil Procedure, the claimants have mistaken their remedy and should have proceeded against the comptroller to secure a refund of the excessive taxes paid by them.

Under the language of the statutes relating to the subject and

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conferring jurisdiction upon this court as well as under the principles of the common law, the claim should be dismissed.*

MURRAY, J. This claim is filed to recover the sum of \$3,478.93, being the amount paid by the claimants to the comptroller of the State, between May 11, 1906, and February 1, 1907, in excess of the lawful amount required to be paid upon the transfer of shares of stock.

The Legislature, by chapter 241 of the Laws of 1905, added section 315 of the Tax Law, to impose a tax "on all sales or agreements to sell * * * or deliveries or transfers of shares of stock * * * made after the first day of June, 1905," of two cents "on each hundred dollars of face value or fraction thereof."

Section 315 of the Tax Law was amended by chapter 414 of the Laws of 1906, so that the tax of two cents, instead of being imposed "on each hundred dollars of face value or fraction thereof," was laid "on each share of one hundred dollars of face value or fraction thereof."

This amendment took effect May 11, 1906.

The Court of Appeals in *People ex rel. Farrington v. Mensching* (reported in 187 N. Y. 8, and decided January 8, 1907) held the last amendatory act to be unconstitutional in so far as it sought to impose the tax on each share of \$100 of face value or fraction thereof, but held the first amendatory act of 1905 to be constitutional and that it was not affected by the unconstitutional act of 1906.

From May 11, 1906, to February 1, 1907, the claimants paid to the comptroller of the State, under the unconstitutional amendment, the tax at the rate of two cents on each share of stock transferred without regard to the face or par value of the stock.

Section 1, chapter 179, Laws of 1843, entitled "An act to refund moneys paid in certain cases for taxes" reads: "Whenever it shall appear satisfactorily to the comptroller that the amount of any tax has been paid, and afterwards other money has been paid into the treasury on account of such tax; and in cases

* See note on page 180.

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where it shall appear that the amount due for any tax has been overpaid, he may draw his warrant on the treasurer for the amount so overpaid, in favor of the person who may have made such payments."

The amendment of the Stock Transfer Tax Law of 1906 provided: "The comptroller may upon satisfactory proof that the stamps have been erroneously affixed and canceled in payment of the tax upon a transfer, and to the loss of an innocent person, refund the amount thereof from appropriations made for necessary expenses under the act, provided the tax justly due is paid upon such transfer."

About February 26, 1907, the claimants made a demand upon the comptroller for the portion of the tax unlawfully levied by the State and paid by the claimants to the comptroller under the unconstitutional statute referred to.

This demand the comptroller refused on the grounds:

First. That he had no power to audit the claim.

Second. That there was no appropriation out of which the claim could be paid.

Subsequently the claimants made some efforts to procure the passage of a bill by the Legislature for their relief. These efforts were unsuccessful — no act was passed — and afterward this claim was presented to this court.

The State introduced no evidence, and relies on its motion for a dismissal of the claim on the ground that this court has no jurisdiction over the controversy.

The primal question to be considered is, has the State recognized this as a claim against itself; has the State waived its sovereignty and consented to be sued in this case? If the State has not constituted this a claim against itself, and has not waived its sovereignty and consented to be sued in this forum, then this court has no jurisdiction of this proceeding and the burden is on the claimant to establish it as a claim recognized by the State, and its waiver and consent to be sued, and the jurisdiction of this court to hear and determine it.

In *Locke v. State*, 140 N. Y. 480-482, the court says: "The liability of the State for this or any other claim must be founded

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on its own consent expressed through some act of the Legislature. The sovereign cannot be impleaded nor made liable in damages for any cause whatever in the courts of justice save in such cases as it has itself consented to be made liable," and cases cited, page 482. See also *Lewis v. State*, 96 N. Y. 71; *People v. Dennison*, 84 id. 272; *Matter of Hoople*, 179 id. 308.

I have been unable to find any act of the Legislature wherein it is expressed that the State has consented to be made liable in this class of cases. And I have been referred to no statute by which the State has waived its sovereignty in cases like this; nor to any case holding that, without express legislative sanction, the State is liable to refund taxes wrongfully levied or collected.

In writing on the subject of taxation and assessment, Page and Jones in their book say: "Since no judgment can be rendered against the State, the State cannot be made a party defendant." 2 Page & Jones, *Taxation & Assessment*, 1893, § 1219.

There may be a moral or equitable obligation on the State, through the Legislature, to provide for the repayment of the money so collected or received. But that does not make this such a legal claim as this court has jurisdiction of.

In *Quayle v. State*, 192 N. Y. 47, the court held: "In cases of claims founded on moral or equitable obligations, it was necessary that there should be some statute authorizing such court (the Court of Claims) to hear and adjudicate them."

In *Cole v. State*, 102 N. Y. 49, the court says: "It seems, however, as a general rule, and in the absence of express provision, the authority of said board is confined to the allowance of legal claims." Also, *O'Hara v. State*, 112 N. Y. 147.

Section 264 of the Code of Civil Procedure, defining the jurisdiction of this court, provides: "It has also jurisdiction to hear and determine a private claim against the state * * *. But the court has no jurisdiction of a claim submitted by law to any other tribunal or officer for audit or determination, except where the claim is founded upon an express contract and such claim, or some part thereof, has been rejected by such tribunal or officer."

"Except where the claim is founded upon an express contract,"

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in the above section of the Code, means where the State has entered into a definite agreement, expressed in words, and there is a controversy over or about such express contract. In such case this court has jurisdiction of a claim founded upon it, though it may have been submitted to some other tribunal or officer.

Express contracts are those in which the agreement entered into by the parties is stated in definite language, either verbally or in writing. 1 Pars. Cont. (9th ed.) 6, note; 1 Page, Cont., § 11, p. 25; 1 Clark, Cont. (2d ed.) 2-6; Chitty, Cont. (15th ed., 1909) 39.

This case, therefore, does not come within the exception provided for in the Code.

From the sections of the Tax Law previously quoted, it seems that it was contemplated by the Legislature that controversies such as this should be submitted to the comptroller; and the claimants state that they submitted this claim to the comptroller for payment, which he refused for the reasons he gave, and which have been previously stated. It seems to me the inhibition of the Code applies to this claim. *Quayle v. State*, 192 N. Y. 47; *Parmenter v. State*, 135 id. 154; *O'Hara v. State*, 112 id. 147; *Cole v. State*, 102 id. 48.

"The authorities generally agree, that a tax or assessment voluntarily paid cannot be recovered back, and it is immaterial in such case that the tax or assessment has been illegally levied, or even that the law under which it was laid was unconstitutional." 11 *Cooley Taxn.* (3d ed.) 1495, 1496, and cases cited.

The same author in reference to this rule says: "Ignorance or mistake of law by one who voluntarily pays a tax illegally assessed furnishes no ground for recovery * * *. Every man is supposed to know the law, and if he voluntarily makes a payment which the law would not compel him to make, he cannot afterwards assign his ignorance of the law as a reason why the State should furnish him with legal remedies to recover it back. Especially in this the case where the officer receiving the money, who is chargeable with no more knowledge of the law than the party making the payment, is not put on his guard by any warning or protest, and the money is paid over to the use of the public

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in apparent acquiescence in the justice of the exaction. Mistakes of fact can scarcely exist in such a case except in connection with negligence, as the illegality which renders such a demand a nullity must appear from records, and the tax payer is just as much bound to inform himself what the records show, or do not show, as are the public authorities. The rule of law is a rule of sound public policy also. * * * All payments are supposed to be voluntary until the contrary is made to appear. Nor is the mere fact that a tax is paid unwittingly, or with complaint, of any legal importance, there must be in the case some degree of compulsion to which the tax payer submits at the time, but with notification of some sort equivalent to a reservation of rights." Cooley Taxn. (3d ed.) 1497-1499.

In the absence of the statute, a voluntary payment of an assessment cannot be recovered, even if the assessment could not have been enforced. 2 Page & Jones Tax & Assessment, 2131, § 1478.

In Phelps v. New York City, 112 N. Y. 216, it was held: "Where an ordinance directing a local improvement is on its face illegal and void, the payment, without coercion, of an assessment for the expenses incurred under its authority is a mistake of law, and the sum paid cannot be recovered back." Also Tripler v. New York City, 125 N. Y. 617.

In Vanderbeck v. Rochester, 122 N. Y. 285, the court says: "That a voluntary payment of an assessment, made under a mistake of law, but with full knowledge of the facts, and not induced by any fraud or improper conduct on the part of the payee, can not be recovered." Also Pooley v. Buffalo, 124 N. Y. 206; Newburgh Sav. Bank v. Woodbury, 173 id. 55; Edison Co. v. Wemple, 133 id. 617.

For the reasons given in the preceding pages, I am of the opinion that this court is without jurisdiction to hear or determine this claim; that the same should be dismissed, and judgment given for the State.

Judgment for State.*

* The judgment of the Court of Claims was affirmed in 143 App. Div., 871; 128 N. Y. Supp. 208, but the finding that the claim was rejected by the

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CHAMPLAIN STONE AND SAND CO V. THE STATE OF NEW YORK*

Claim No. 9131

Wood Creek was part of a natural system of water communication between the Hudson River and Lake Champlain. It was used as such from the earliest times by the Indians and later by the Colonists. During this time the use of the stream became dedicated to the public by reason of its having been used by the public from time immemorial.

When in 1767 the English Crown granted certain lands, embracing Wood Creek, to the patentees therein named, the Colonial authorities recognizing that Wood Creek had been so used as a common water highway, and that the public by reason of such uses had acquired rights in it, the patent mentioned contained the reservation and exception "Excepting the said Wood Creek which is reserved as a common highway for the benefit of the public."

Comptroller was reversed as contrary to law and the evidence. In his opinion, Kellogg, J., said:

"It is evident, therefore, that it is clearly the duty of the Comptroller to pass upon the plaintiff's claim, ascertain and determine the amount thereof and certify to the same in proper manner so that it may be paid from any funds properly applicable to that purpose. We must assume that if the Legislature has not appropriated sufficient funds for that purpose it will perform such duty upon proper statement of the Comptroller that certain sums were due to claimants which could only be payable under the statute from such appropriations. The claim was never in fact presented to the Comptroller or rejected by him, and the appellants are at liberty to take such action before him as they may be advised.

"It is clear that if the statute required this claim to be submitted to the Comptroller for determination, it is not a claim within the jurisdiction of the Court of Claims. Section 264 of the Code of Civil Procedure, conferring jurisdiction upon that court, provides: 'But the court has no jurisdiction of a claim submitted by law to any other tribunal or officer for audit or determination, except where the claim is founded upon express contract and such claim, or some part thereof, has been rejected by such tribunal or officer.' It is manifest that this claim does not rest upon express contract. It may be considered as a claim arising from the terms of the statute which imposes the tax and provides a remedy by which an innocent person erroneously paying too much may properly be reimbursed. I think, therefore, the Court of Claims had no jurisdiction, and that the Comptroller alone can grant relief. The judgment should be affirmed, with costs."

All concurred; Smith, P. J., in result on the ground that the Court of Claims had no jurisdiction.

By chapter 186 of the Laws of 1910 the Legislature permitted claimants whose claims for refunds were rejected by the Comptroller in whole or in part to "file a claim for the recovery of such sum as the comptroller shall have refused to allow, with the court of claims, which shall constitute a private claim against the state and shall be subject to all the provisions of law governing such claim * * *."

For a claim brought under the above provision, see *Van Antwerp v. State of New York*, 218 N. Y. 422, affirming 170 App. Div. 98.

* Reported in 66 Misc. 434; 123 N. Y. Supp. 546.

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After the Revolutionary War, Wood Creek passed to the State of New York as the successor of the Crown, and the State received it "as a common highway for the benefit of the public," charged with the public easement therein, and its dedication to the public as a common highway for the benefit of the public.

The status of Wood Creek not having changed to the present time, the successors in title to the original patentee have no interest in the bed of said creek, and the lessees of land abutting on the creek have no right to build upon, or maintain over it, a private bridge for the transportation of merchandise.

Wood Creek being impressed with navigability by the original patent, the State of New York exercising its paramount right to improve a navigable stream, may take such creek, or portions of the same, for its canal system, without compensation to the owner of the land coming to its banks.

When a highway, land or water, has been dedicated to the public for a purpose, the sovereign power may take or improve such highway for the same general purpose or object, without compensation.

The power of eminent domain is a natural and inherent attribute of Sovereignty. The Constitutional provision "that private property shall not be taken for public use without compensation" means that the compensation shall be just to the public as well as to the individual.

In case of injuries inflicted through the power of eminent domain, the owner of the property should use reasonable and proper precautions to prevent or decrease the injury and should not be allowed to increase, swell or enhance the injury, or the damages sustained, in bad faith.

RODENBECK, J., dissenting.

Where a State patent reserves a creek in the following language "excepting the said Wood creek which is reserved as a common highway for the benefit of the public," the reservation does not include the bed of the creek but embraces merely a public easement in the waters of the creek. (State Constitution 1777, Art. 35, 36; State Constitution 1821, Art. 7, § 13; State Constitution 1846, Art. 1, § 17; State Constitution 1894, Art 1, § 16.)

Where a creek formerly navigable in fact becomes unnavigable and the bed of the stream is owned by the adjacent owner, he and his lessee have the right to construct a bridge across the creek without legislative authority and if necessary place piers in the bed of the creek for the purpose subject to the public easement in the waters of the creek. (*Chenango Bridge Co. v. Paige*, 83 N. Y. 177; *Groat v. Moak*, 95 N. Y. 115.)

It is not an improvement of the navigation of a narrow creek 15 feet in width where the State intercepts the windings of the creek with a canal 75 feet wide and 12 feet deep, thereby substituting an artificial channel for the natural stream and changing the rights of the parties with respect to the use of the water course. (State Constitution, Art. 7, § 9.)

The State has the right to improve the navigation of a stream navigable in fact but the exercise of this authority is subject to the provisions of the

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State and Federal constitution requiring compensation to be made where private property is taken. (*Gibbons v. Ogden*, 9 Wheat. 1; *Sage v. Mayor*, 154 N. Y. 61; *Scranton v. Wheeler*, 179 U. S. 141; *Gibson v. U. S.*, 166 U. S. 269 Federal Constitution, Art. 5; State Constitution, Art. 1, § 6; *Canal Fund v. Kempshall*, 26 Wend. 404; *Smith v. City of Rochester*, 92 N. Y. 463; *Waller v. State*, 144 N. Y. 579; *Lakeside Paper Co. v. State*, 15 A. D. 169; *Pumpelly v. Green Bay Co.*, 13 Wall. 166; *United States v. Lynah*, 188 U. S. 445; *Lowndes v. United States*, 105 Fed. R. 833).

The right of abutting owners to use the water of a stream navigable in fact for purposes of navigation or other riparian uses is a property right under the constitution and can not be taken for a public use without making compensation therefor. (*Forster v. Scott*, 136 N. Y. 557; *Pape v. N. Y. & Harlem R. R. Co.*, 74 A. D. 188; *Storey v. N. Y. El. R. R. Co.*, 90 N. Y. 122; *Lahr v. Met. El. R. R. Co.*, 104 N. Y. 268; *Reining v. N. Y., L. & W. R. R. Co.*, 128 N. Y. 157; *Muhlker v. Harlem R. R. Co.*, 197 U. S. 568; *Matter of Brooklyn Union El. R. R. Co.*, 155 A. D. 111; *Parish v. Baird*, 160 N. Y. 302; *Monongahela Navigation Co. v. U. S.*, 148 U. S. 341; *Mayor v. Starin*, 106 N. Y. 1; *People v. O'Brien*, 111 N. Y. 1; *Sixth Ave. El. R. Co. v. Kerr*, 72 N. Y. 330; *People v. Sturtevant*, 9 N. Y. 263; *Lewis Eminent Domain*, §§ 73, 68; *Gould on Waters*, § 204; *Cooley Constitutional Limitations*, 7th ed., p. 863; *Morgan v. King*, 35 N. Y. 454; *Rumsey v. N. E. & H. R. R. Co.*, 133 N. Y. 79; *Saunders v. N. Y. C. & H. R. R. Co.*, 144 N. Y. 75; *Town of Brookhaven v. Smith*, 188 N. Y. 74; *Matter of City of New York*, 168 N. Y. 123; *Lewis Eminent Domain*, § 243; *Gilzinger v. Saugerties Water Co.*, 66 Hun 172, aff. 142 N. Y. 633; *Crooker v. Bragg*, 11 Wend. 260; *Commissioners of Canal Fund v. Kempshall*, 26 Wend. 403; *Yates v. Milwaukee*, 10 Wall. 497.)

The State though possessing the right to improve the navigability of a stream without making compensation for consequential damages may nevertheless provide for compensation for riparian rights which it interferes with under this authority. (*Barge Canal Act*, L. 1903, ch. 147; *O'Connor v. Pittsburgh*, 19 Pa. St. 190; *Transportation Co. v. Chicago*, 99 U. S. 635; *United States v. Alexander*, 148 U. S. 186; *People v. N. Y. C. & W. R. R. Co.*, A. D. 3d Dept., June 24, 1909.)

In proceedings for determining the compensation for rights taken under the power of eminent domain loss of profits may be taken into account with other elements in determining the value of the property but are not the measure of damages. (*Lakeside Paper Co. v. State*, 45 A. D. 113; *Bates v. Holbrook*, 89 A. D. 548; *Egan v. Browne*, 128 A. D. 184; *Bagley v. Smith*, 10 N. Y. 614; *Snow v. Pulitzer*, 142 N. Y. 263; *Danolds v. State*, 89 N. Y. 36; *Moraver v. Grell*, 78 A. D. 146; *Hoffman v. Edison Electric Illuminating Co.*, 87 A. D. 371; *Griffin v. Colver*, 16 N. Y. 494; *Wehle v. Haviland*, 69 N. Y. 448; *Witherbee v. Meyer*, 155 N. Y. 446; *Reisert v. City of New York*, 174 N. Y. 196; *Lewis Eminent Domain*, 2nd Ed., § 487; 15 Cyc. 733, 735.)

Where a lease provides for the erection of structures upon land by a tenant they are to be treated in condemnation proceedings as realty where they form a part of the realty though designated in the lease as personal property removable by the lessee at the expiration or termination of the lease. (Ap-

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removable by the lessee at the expiration or termination of the lease. (*Appointment of Park Comrs.*, 1 N. Y. Sup. 763; *Matter of City of N. Y.*, 130 A. D. 600.)

Where the whole property is appropriated and benefits are not involved the method for ascertaining the damages so far as the owner is concerned, is to estimate the market value of the property at the time of the appropriation taking into account all improvements upon it which form a part of the realty whether made by the owner or the tenant.

In such a case where the rent reserved for the unexpired term equals or exceeds the market value there are no damages to the tenant but where the rent reserved is less than the market value of the lease for the unexpired term the tenant is entitled to the difference between the market value of the lease and the rent reserved.

Where only part of the leased property is taken the question so far as the owner is concerned is, where benefits are not involved, what was the market value of the property immediately before and immediately after the appropriation taking into account the character of the public improvement to be made and the structures placed upon the property either by the owner or by the tenant which form a part of the realty.

Where only part of the leased property is taken the question, so far as the lessee is concerned is, what was the lease worth in the market immediately before and immediately after the appropriation taking the same elements into consideration as in the case of the owner with reference to the public improvement and the structures placed upon the property.

Where property taken is subject to a lease or other incumbrance the value of the lease or incumbrance or where part of the property is taken, the damages to the lease or incumbrance, must come out of the compensation allowed for the fee. (*Matter of N. Y., W. S. & B. R. R. Co.*, 34 Hun 623; *Matter of City of New York*, 128 A. D. 701.)

Where a lessee files a claim for damages to his leasehold the extent of his damages and any other issues between the landlord and tenant involving serious questions of law can not be determined until the owner of the fee has been brought into court.

Query: Has the court of claims jurisdiction to pass upon issues between the landlord and tenant as to the validity of the lease or the compensation to be allowed the tenant, where both parties are not in court and do not consent thereto?

(Decided February 7, 1910.)

James McPhillips, for claimant.

The Attorney-General, for the State.

MURRAY J. This claim is filed to recover damages for making a stone quarry, hereafter described, less accessible by reason of the State's appropriating intervening land for the purposes of the improved or new barge canal.

Opinion by Murray, J.

In the year 1890, one Charles S. Fenton was the owner of a piece or parcel of land running to the east from the Delaware and Hudson Company's property at its railway station at Fort Ann, in the Township of Fort Ann, Washington County and State of New York. On this land, east of Wood Creek, which flowed between it and the railway station mentioned; is a stone quarry known as the Rice Stone Quarry (Sten. Min. 3, 22, 37), comprising a tract of about 15 acres and which is the subject of this litigation.

About the 14th day of March, 1906, the said Fenton leased to James E. Flood and James E. Sherrill, for the term of ten years, the said Rice stone quarry, and all the premises connected therewith, together with a right of way from the said quarry over and across the land mentioned, to the railroad tracks of the Delaware and Hudson Railway Company at Fort Ann, with the right to cross said land with a railroad track, to enable the lessees to convey the products of the quarry to the said railroad tracks, and bring from the railway tracks supplies for the operation of the quarry, and also the privilege of putting in machinery and erecting other necessary structures for the operation of the quarry.

It was agreed in the lease that the lessees should remain the owners of such structures and appliances they put upon the land, and could remove them at the expiration of the lease. This lease was recorded in the County Clerk's office of Washington County on August 7, 1906. Subsequently, and while this lease was in force, on March 24, 1906, Flood and Sherrill transferred and assigned it, with all the rights granted them, and all their interest in the quarry, to the claimant herein (pp. 57, 58). This assignment was also recorded in the County Clerk's office of Washington County, at the same time the original lease was recorded. On August 27, 1906, the term of the original lease was extended for an additional term, making a total term of 20 years for which the property was leased.

The lease provided that Fenton, the owner and the lessor, was to receive the annual sum of \$100 per year as rental, and a royalty of four cents a cubic yard on all stone shipped from the quarry

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(p. 36). When the original lease was transferred by Flood and Sherrill to the claimant's company, they received for their leasehold rights and stone plant \$30,000, in the stock of the company (p. 250). They became, and are, officers of the Champlain Stone and Sand Company, and are largely interested therein.

Before the State formally appropriated the land, hereinafter mentioned, there was upon the quarry property, some machinery and bins constructed in 1907 (p. 141) for the mining, crushing and storing of the stone. There was also built a curved railroad track and road bed from the quarry to the property of the Delaware and Hudson Company, connecting the quarry with the Delaware and Hudson Company's railroad tracks at Fort Ann. The claimant made the road bed and the Delaware and Hudson Company put on the iron. The road bed and all the appliances were, with the exception of the rails, bought and placed there by the stone company (p. 73).

Between the quarry and the tracks of the Delaware and Hudson Company's railroad at Fort Ann, and flowing through Fenton's land, is Wood Creek. The curved railway mentioned ran from the quarry to this creek, crossed Wood Creek on a bridge (p. 29) and then to the railroad tracks. This spur, which was built in 1906 (p. 106), from the railroad, ran to Wood Creek, spanned the banks of the creek by a wooden bridge and then to the quarry. The Delaware and Hudson Company ran their cars, over and back, on this spur, over this bridge, to the quarry. The stone was dumped there in the cars, and the cars ran back to the railroad company's tracks over the same route.

On December 27, 1906, there was filed in the office of the Superintendent of Public Works, at Albany, a map with the survey of land theretofore made which the State intended to formally appropriate for the purposes of the improved canal.

The described land of Fenton was duly and formally appropriated by the State by the service on him on January 8, 1907, of the usual map and notice (p. 201) and a duplicate thereof was served on the claimant on the 8th of August following. On January 14, 1907, a written notice to vacate the appropriated premises was served on Fenton (p. 117, 191).

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The property of Fenton, thus condemned, lay between the railroad tracks of the Delaware and Hudson Company at Fort Ann and the claimant's quarry. This land is traversed, or crossed, by Wood Creek. The railroad track, or spur mentioned, was built by the claimants in the fall of 1906, it was used by the State for transporting its hydraulic dredge in the months of December, 1906 and January, 1907 (p. 192), and for a while previous to this it was not used by the claimants. In building the improved canal the State follows, as closely as it is practicable the course of Wood creek, which crosses, as mentioned, the land of Fenton taken by the State. After the appropriation of this property, the State used it for the purposes of the new barge canal. The work authorized by the State destroyed the bridge built by the claimants across Wood Creek, it cut off the direct transportation of stone from the quarry to the railroad company's tracks, and rendered the quarry less accessible to the Delaware and Hudson Company's railroad property.

Respecting the destruction of this bridge and the greater inaccessibility of the quarry, the claimant alleges that in order to operate the said quarry to any extent it was necessary to pass from said quarry directly across the land so appropriated to the railroad tracks of the Delaware and Hudson Company; that said railroad track (which crossed Wood Creek) was a necessary incident to the quarry plant and without said railroad track the operation of the quarry would be practically impossible; that, by reason of the destruction thereof, the claimant has been deprived of a most valuable right of way and easement, and it has been deprived of the only convenient means of conveying fuel and other material to said plant, and of conveying and shipping the products of the plant; and that without the bridge the claimant will be unable to operate the plant, and the necessary cost of building such a bridge would involve the expenditure of a large amount of money.

The evidence of the claimant's witnesses was, that without the railroad connection, and the bridge across Wood Creek, the lease was practically of no value (pp. 33, 63, 76, 92).

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The claimant's officers lived in the vicinity of this quarry; they had known the property all their lives, and known about the quarry (p. 12) thirty years (pp. 2, 144). When Flood and Sherrill obtained the lease from Fenton they testified "The quarry had been practically unused for years. It was used occasionally, spasmodically. Might be used a month, and not again for 2 or 3 years, and used again for 2 or 3 months" (p. 64).

"The quarry was operated spasmodically, that is if you had a job to do you might quarry a few stone there to complete that job, and then it was shut down" (p. 47). "Trap rock was never quarried in this quarry until we leased it (p. 30) although it was known to be there" (p. 162). The quarry in question had two kinds of stone, gneiss and trap rock (pp. 10, 119). No proper cross sections were run or, in my judgment, sufficient tests made to accurately approximate the quantity of either (pp. 173-180). The claimant's witnesses estimated an immense number of yards of each (pp. 10, 12, 39, 78, 174). The State witnesses much less.

It was the claimant's plan to mine and crush this rock, transport it by the railroad track, or spur it built, over the bridge, across Wood Creek, to the Delaware and Hudson Company's railroad tracks, and find a market for it principally on the good roads to be built by legislative authority (pp. 14, 16, 20, 44-6, 65, 66). The value of this leasehold was thereupon estimated to be from \$300,000 to \$480,000 (pp. 32, 81, 83, 132, 142, 154-6, 157-9, 162).

The legislature passed an act, chap. 147, Laws 1903, known of the "Barge Canal" or "The Improved Canal Act." This act, under the designation of "Champlain Canal route to be improved" provided: "Beginning in the Hudson river at Waterford, thence up the Hudson river canalized to near Fort Edward: thence via the present route of the Champlain canal to Lake Champlain near Whitehall." The 15th section of the act provided it was to be submitted to a vote of the people at the November election, 1903. It is matter of judicial cognizance that it was then submitted to and adopted by a vote of the people at that election.

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Under this statute, the State's survey for the center line of the improved canal was run through Fenton's property in September, 1904. It followed "the present route of the Champlain canal." In laying out this center line at this time, the State had a corps of five engineers; the work was done openly (p. 210) and it must have been done in the day time. In running the center line, stakes were set to mark it (p. 195) and to mark the land to be appropriated (p. 194). In low ground these stakes protruded some six inches over the surface, and when the land was hard they were driven nearly flush or even with the soil (p. 198).

It was known that the survey for the center line had been made in September, 1904, and that it was marked by stakes which had been driven into the ground (p. 196-8).

The center line of the Barge canal as surveyed in September, 1904, across Fenton's property, has never been changed; the stakes were marked "C. L." Center line (p. 210). This survey for the appropriation was made, and the stakes which marked the appropriation lines were put in before Flood and Sherrill procured the lease from Fenton, which was March 14, 1906 — before the construction of the claimant railroad spur and bridge across Wood creek (p. 195). This switch, which was built in the fall of 1906 (p. 192), was then laid across the land which had been surveyed and marked to be taken by the State for the improved canal (p. 190).

The claimant's officers testified that they knew the State had surveyed Fenton's land (p. 59) and knew that the survey was between the quarry and the railroad (p. 66). Sherrill, one of the lessees from Fenton, says: That he became interested again in this quarry in the fall of 1906, or early in January, 1907 (p. 84). That he heard they were talking about the barge canal and that was all he knew about it (p. 85). That when he got the extension of the term of the lease, he did not know *particularly* about the barge canal (p. 85), when he got the extension of the lease he didn't know where the canal was going — they said they were going to have a canal through there (p. 86). The claimant began quarrying about June 1, 1907 (p. 36-38), and from that time

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and until prevented by the State, marketed a small quantity of stone, a statement of which is attached to the evidence.

For convenience, the examination of this case will be divided into three parts and classified as: The merits of the claim; the rights of the claimant in Wood creek and to maintain a bridge over it; and the damages sustained.

First: The merits of the claim, or the good faith of Flood and Sherrill in procuring the lease, under the circumstances, from Fenton, and the good faith of the claimant in presenting the claim in this action.

An analyzation of the evidence offered to the court substantially shows:

That this quarry was practically a disused one and was known by Flood and Sherrill to be such when they obtained the lease thereof from Fenton. That the Legislature passed chapter 147 of the Laws of 1903; this is generally known as the Barge Canal, or the Improved Canal Act, which was voted upon and adopted by the people at the November election, 1903. That this act provided for the improvement of the Champlain canal and designated that it was to be rebuilt or improved "via the present route of the Champlain canal to Lake Champlain near Whitehall." That thereafter, and pursuant to the authority given by the people, the State commenced the reconstruction or rebuilding of the Champlain canal. That in the month of September, 1904, the State commenced the preliminary work of surveying for the improved canal, and this survey ran through Fenton's property beside Wood creek and between the quarry and the Delaware and Hudson Company's railroad tracks. That this survey was open and notorious; it was made by a corps of five engineers and the line run was matter of general information and local knowledge and comment. The center line of the survey was indicated by stakes set in the ground which marked the center line, which were visible to all, and this center line, as marked, was not changed from the time of this survey in September, 1904, to the time of the formal appropriation by the State of the land so marked out.

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That subsequently to this, in March, 1906, Flood and Sherrill obtained a lease of this quarry at an annual rental of \$100 per year and a royalty of four cents a cubic yard on all stone shipped from the quarry to be paid to Fenton, the owner, and in the fall of 1906 there was built the railroad spur connecting the quarry with the railroad tracks of the Delaware and Hudson Company at Fort Ann, and the bridge which crossed or spanned Wood creek. The railroad spur crossed the land which had already been surveyed and marked by the State to be appropriated.

That the Barge canal was to be built; that the Champlain canal was to be improved via the present route of the Champlain canal, was matter of common knowledge. Flood and Sherrill were citizens of this State, living in the neighborhood of the Champlain canal, in a locality where the canal controversy, at the time, awakened much interest, and attracted the attention of the voters. It is presumed that every citizen does his duty, and that Flood and Sherrill did theirs in the right of franchise in the November election of 1903, at which the Canal Act was voted upon. Before Flood and Sherrill procured this lease and the railroad spur was built, it was matter of general information in that vicinity, and of local comment and talk that the improved canal route was surveyed to run through Fenton's land and between the quarry and the railroad company's tracks. That Wood creek being the low land, it was matter of experience that a canal would naturally follow and take the stream so far as its sinuosities made it practical.

Flood and Sherrill were contractors dealing in stone, and it is reasonable to presume they kept themselves informed, and that they were conversant with this situation. In their evidence, while denying their knowledge of the definite route of the new canal, they substantially say that they knew the local information that the canal had been surveyed to run through Fenton's property between the quarry they subsequently leased and the Delaware and Hudson Company's railroad tracks. The stakes set to mark the line of the land to be appropriated, were visible to all; they could have seen them, and prudence, under these circumstances,

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should have prompted them to apply to the State officials for information whether the land marked for appropriation was to be formally taken, especially when they were to build this spur via a right of way over lands already surveyed and marked for condemnation, and which was subsequently to be claimed of such enormous value to the claimants.

The Court visited this property and saw and inspected the quarry. It is a hillside with rock exposed to sight and casual observation, with evidences of ephemeral quarrying, and with shrubs and scrub trees in places, upon its sides and top. There was no hidden treasure or concealed wealth requiring exploitation to discover it; technical experience told its character and required no scientific skill or experiments to develop a process of treatment to make it marketable. The stone needed only to be crushed to the requisite size to be ready for shipment. This was not a newly discovered quarry—it had been known and used in that locality for a long time—and Flood and Sherrill had known it for years. Their evidence is that: “The quarry had been practically unused for years. It was used occasionally, spasmodically, might be used a month, and not again for two or three years” (p. 64). “The quarry was operated spasmodically, that is if you had a job to do you might quarry a few stone there to complete that job, and then it was shut down.” (p. 47).

It seems logical, that if this quarry had been so long in existence, and was so well known in that neighborhood “that if you had a job you might quarry a few stone there” and was as valuable as now claimed, that others would have leased it during all this period, or that quarrying would have been continuous.

Flood and Sherrill had known the quarry for years, and if it was worth so much that the claimant's witnesses could estimate the value of the leasehold from \$300,000 to \$480,000, it is also logical to suppose Flood and Sherrill would have leased it long before; before there was any likelihood of its accessibility being interfered with—when they could have enjoyed all its advantages—and not wait until the intervening property had been, under the law, surveyed and marked for condemnation by the

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State, and then sought a lease which would be in so short a time rendered valueless. And truly, in fair dealing with the owner Fenton, they should have paid him more than \$100 per year rental for a leasehold which for 20 years was estimated to be worth to the claimants the sum of \$480,000.

Therefore, I doubt the good faith, the fair dealing, of the claimant, in presenting this claim, and I feel compelled to say, that it has impressed me as a scheme whereby, it being known that the Barge Canal Act was passed, and under its authority the State was about to construct a work of great public improvement for the benefit of the people of the State and nation, and that the route for the improved Champlain canal had been surveyed, and marked, and was about to be built through Fenton's land, the claimant procured the lease in question at a small annual rental — at which sum it didn't risk much — and built the railroad spur and the bridge across Wood creek, with the expectation that the State would appropriate such intervening land, and it thereby sought to reap a rich profit and to add to the burdens of the taxpayers of this State.

Practically, the market for the products of the quarry was to be the good roads authorized by the Legislature. Or, in other words: that through the State there would be a market for the stone of the quarry — upon which the estimated value of the lease was greatly based. That the State would appropriate the intervening land of Fenton, which would make the quarry less accessible and be mulct in damages therefor. That the betterments which they put on the property, thus surveyed, and marked for appropriation, would enhance the value of the lease and swell the cost of condemnation. The State was to be the creator, the destroyer, and the payor. The payee, the claimant in this action.

In the discussion of the law applicable to this somewhat unique condition, it should first be remembered that this claimant comes into this Court by the grace of the Legislature. It is a truism that a favor given is a favor not to be abused.

In *Coster v. Albany*, 43 N. Y. 399, the Court in its opinion, page 410, says: "The Legislature has gone far, and often

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beyond the line of legal liability, and has made provision for the hearing and payment of claims which a court of law would not entertain. But it was in the exercise of a Sovereign grace; it was a bestowal of favor."

No action will lie against the State, or any of its officers, without express legislative provisions. When the State abdicates its sovereignty, citizens who benefit by such act of grace, acquire no vested rights, but simply a privilege granted by the State, which may be hedged about and withdrawn. (*Matter of Hoople*, 179 N. Y. 308; *Sanders v. Saxton*, 182 N. Y. 477, 478-9; *Locke v. State*, 140 N. Y. 480.)

The power of eminent domain is a natural and inherent right of sovereignty. It does not come from the Constitution. It existed before the Constitution. The power to appropriate property for public use, for the promotion of the general welfare, is a power inherent in every government. (*Harris, Damages by Corpor.*, §§ 16, 31, 32, 44; *Lewis, Eminent Domain*, § 9.)

In taking property for public use, the State acts rightfully and not as a wrong doer. It guarantees just compensation and nothing more. (*Lewis, Eminent Domain*, § 9.)

The State Constitution, Art. I, § 6, provides: "Nor shall private property be taken for public use without just compensation."

The Constitution is an inhibition of the inherent right of eminent domain in the sovereign and merely prohibited the taking of private property for public use without just compensation. (*Harris, Damages by Corpor.*, §§ 32-31. *Freund, Const. Rights & Public Policy*, § 506.)

The question whether Wood creek was "private property" and the rights of Fenton to it, will be considered later.

But assuming, in this discussion of the merits of the claim, that the claimant owned private property which was the subject of appropriation — for which just compensation should be given — and that the Sovereign power has exercised its right of eminent domain in relation to it, then the position of this claimant before this Court is, that under the law it is entitled to just compensation for the private property taken.

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The definition of the word "just" is conformable to rectitude and justice; not doing wrong to any; violating no right or obligation; not transgressing the requirements of truth and propriety; rendering to each his due; and of the word "compensation" that which compensates for loss or privilege; a recompense for some loss.

Lewis on Eminent Domain, § 462, says: "Just compensation" means a full and fair equivalent for the loss sustained by the taking of the property for the public use. The fair market value of the land taken. (*Sutherland on Damages*, § 1064. See also *Canal Law*.)

Section 264 of the Code of Civil Procedure, in conferring jurisdiction upon this Court, provided: The State in all such cases, consents to have its liability determined. In no case shall any liability be implied against the State, and no award shall be made on any claim against the State, except upon such legal evidence as would establish liability against an individual or corporation in a court of law or equity.

No claim, other than for the appropriation of land, shall be maintained against the State unless the claimant shall file, etc. (*See also Canal Law*, § 37.)

It was the intention of the Legislature, in giving jurisdiction to this tribunal in this class of cases that "just compensation" pursuant to the Constitution should be awarded to its citizens for property taken, "conformable to rectitude and justice," "not doing wrong to any," and "violating no right or obligation." That the claim should not transgress the requirement of truth or propriety; that unconscionable claims should not be allowed against the Sovereign power, and that its citizens could not buy, lease or procure property simply for the purpose of obtaining greater damages against the State.

That the citizen should have a forum to which he could come and receive just compensation for property equitably owned, in good faith obtained and justly held, which was taken by the State. The Legislature provided a direct method by which the citizens could appeal to this Court and the State's liability was to be deter-

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mined upon such legal evidence as would establish such liability against an individual or corporation in a court of law or equity.

Fraud in equity includes all acts, omissions and concealments which involve a breach of legal or equitable duty, trust or confidence, justly reposed, and which are injurious to another, or by which an undue and unconscientious advantage is taken of another. (*Gale v. Gale*, 19 Barb. 249.)

Never, do I think, the Legislature intended by the statute that “an undue and unconscientious advantage should be taken of the State, when a great public improvement was authorized for the benefit of all its citizens.”

In *Hayden v. Pierce*, 144 N. Y. 512, it was held:- That a construction of a statute is to be avoided which is liable to produce mischief, or to promote injustice.

In *Tyrrell v. Mayor*, 159 N. Y. 239, the Court held: The interest of the public, other things being equal, is superior to that of the individual.

There are a great number of cases involving the appropriation of land, tried annually in this Court. To establish a precedent that claimants could recover under similar conditions as disclosed by the evidence and the circumstances of this case, would promote such injustice and “produce such a public mischief” as would throw a grievously burdensome taxation upon the citizens of the State, and retard the completion of the great public improvement now under construction.

Reese on Ultra Vires says: Whenever from the plaintiff's own stating or otherwise, the cause of action appears to arise from a transgression of a positive law of the country, he has no right to be assisted.

“The attempt to contravene the policy of a public statute is illegal, nor is it necessary to render it so that the statute should contain an express prohibition of such an attempt. It always contains an implied prohibition and to such attempts the principles of the common law are invariably and deadly hostile.” (*Reese on Ultra Vires*, § 69.)

An agreement contemplating the assertion of an unjust claim

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is void. (p. 441.) Any contract which has for its object the practice of any deception upon the public or upon a public officer * * * or which is made in order to consummate a fraud on the public, or on the public treasury, or on third persons is void. (p. 153) (*Greenhood, Public Policy*, pp. 153, 441.)

By section 264 of the Code of Civil Procedure, the State consents to have its liability determined "upon such legal evidence as would establish such liability against an individual or corporation in a Court of Law or Equity."

Therefore, the liability of the State in this case, may be determined in this Court, upon such evidence as would establish its liability in a Court of Equity.

Randolph on Eminent Domain, § 381, says: Equitable jurisdiction in respect to the essential obligations of eminent domain, is well established. (*Brice, Ultra Vires*, p. 468.)

It has been held: When the State invokes the aid of a Court of Equity, it is subject to the same rules as are applicable to ordinary suitors in that court (*People v. Mould*, 37 App. Div. 35; *Forest Com. v. Campbell*, 156 N. Y. 64.), and the converse of the proposition must likewise be true.

A Court of Equity will not enforce an unconscionable or inequitable claim, nor permit its process to be used to produce an inequitable result. (*Broderick v. Smith*, 26 Barb. 539; *Bradley v. Dwight*, 62 How. Pr. 300; *Foster v. Hughes*, 51 How. Pr. 20.)

Where an unconscientious advantage has been taken equity will not relieve though not amounting to a fraud in law. (*Lyon v. Tallmadge*, 14 Johns. 501.)

Where the plaintiff has acted in bad faith equity will not decree specific performance, nor if it would be inequitable, nor in the case of a hard and unconscionable bargain. (*Jones v. Babbitt*, 66 Barb. 611; *Fitzpatrick v. Dorland*, 27 Hun. 291; *Mathews v. Terwilliger*, 3 Barb. 50; *Margraf v. Muir*, 57 N. Y. 155.)

A Court of Equity may adapt its relief to the exigencies of the case. (*Bailey v. Hornthal*, 154 N. Y. 648.)

If, therefore, one with the knowledge that the State is about to construct a public improvement for the benefit of the common-

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wealth, under an act in which the line and course of the improvement is specified, and the survey therefor actually made and marked by stakes showing the boundaries of the land which the State is on the eve of appropriating — though before the notice of such condemnation is formally served on the owner — with knowledge of such facts and circumstances, leases property, which he knows will be rendered less accessible by the taking of the land for that public improvement, when appropriated, he is acting in bad faith to the State when he procures such a lease. That good faith to the Sovereign requires he should seek definite information as to the likelihood of such land being taken, or wait a reasonable time to see, if under such expressed intention of the State to take, the property was formally appropriated. That with such knowledge and under such conditions and circumstances, in procuring such lease, he voluntarily put himself in a position of peril from which loss would probably ensue, and so acting with such knowledge and under such conditions, he was the author of any misfortune he might suffer, the consequences of which he seeks to cast upon the State. And if one so procure such a lease at an annual rental of \$100 per year, and then seeks to mulct the State for the estimated value, of the twenty-year term of the lease at from \$300,000 to \$480,000, it is such an unequitable, hard and unconscionable bargain as not to commend itself to a court of justice or equity.

It has been held: A party cannot be the author of his own misfortune, and then charge the consequences upon others.

That one cannot voluntarily expose himself to danger and then recover damages arising from the peril he freely sought.

That damages for injuries which could easily have been avoided, are not recoverable.

That a tenant cannot recover from his landlord damages for injuries to his property which, with little trouble or expense, he could have prevented.

That one who makes improvements on land, in bad faith, cannot recover for the improvements made.

These cases might be multiplied indefinitely, but they are given

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to show that one of the basic principles of judicial decisions is to establish and promulgate the doctrine of good faith, fair dealing and equitable conduct between men.

So it has been stated: He who comes into equity must come with clean hands; that no one shall take advantage of his own wrong; he that hath committed iniquity, shall not have equity.

“Clean hands,” means a clean record with respect to the transaction with the defendant. (*Van Zile, Eq.*, § 12.)

The party aggrieved must come into court with clean hands. He must be innocent of any participation in the wrong. (*Unckles v. Colgate*, 148 N. Y. 529.)

Important distinctions are made against parties when the cause of action originates in a bad motive. (*Sutherland on Damages*, § 99.)

In cases of injuries inflicted through the power of eminent domain, it is expected that the owner will use reasonable and proper precaution to prevent or decrease the injury. (*Sedgewick on Damages*, § 220.)

Mills in his work on Eminent Domain thus states the general rule: Owners have a right to improve their property, notwithstanding a line of public improvements has been marked out, unless such improvements were made in bad faith. (*Mills on Eminent Domain*, §§ 316, 148.)

The above authority was cited by the court in *Cent. R. v. State*, 37 App. Div. 57, at page 64 of the opinion.

In the *Matter of Mayor*, 24 App. Div. 7, the Court (p. 10) says: “The land was not appropriated until the 27th day of February, 1895, when the commissioners finally decided to take it.” The owner was not called upon by reason of the probability of his land being taken “to refrain from any act which the owner of the property might do by way of making his land more valuable or better fitted for the purpose, for which he had been in the habit of using it. Whatever he might do upon the land by way of enhancing its value, which any other owner might do, was lawful and proper, and the public authorities could not restrain him in it * * * unless, perhaps, it should appear that, with the certainty

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that the land was to be used, he was acting in bad faith, simply for the purpose of enhancing the damages which he was to receive for it. But nothing of that kind was presented in this case."

In the case at bar the claimants were not the owners of the land. They were simply the lessees of the quarry, which was not appropriated, with the right of way only across the condemned premises. They procured the lease and built the spur on the right of way, under the conditions before detailed.

The rule that no recovery is allowed, where one makes improvements upon property in bad faith — with the expectation that it will be condemned — for the purpose of enhancing its value, has been recognized in some of our sister states.

Second: The rights of the claimants in Wood creek and to erect over and maintain a bridge across it.

The claimants held a lease of the quarry in question, from Fenton, for the term of 20 years. The quarry was not taken by the State. It was the adjacent property of Fenton which was appropriated, and over this property the claimants had a right of way from the quarry to the railroad tracks. It is the condemnation of this intervening land, which is traversed or crossed by Wood creek, that it is claimed has rendered the quarry so inaccessible that it is valueless.

The allegations of the claim, and the evidence of the claimants' witnesses respecting this division of the case, showing that the quarry, without a right to bridge Wood creek, or maintain a structure over it, was worthless, has been given supra. To maintain this connection with the railroad tracks over this right of way, it was necessary to build a bridge across Wood creek, or span it with some structure suitable for transportation. It is asserted by the claimants that Fenton had such rights in and to Wood creek, that he could grant them this privilege. It then becomes apparent that if Fenton had no such rights, the theory of the claimants' case falls, and the burden is cast upon them of establishing such rights.

We will therefore discuss the rights of the claimants in Wood creek through Fenton, and to maintain a structure over it.

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The Constitution, *supra*, provides, "private property" shall not be taken without just compensation. Was Wood creek "private property"? If it was public property, the State could exercise its inherent, natural, sovereign right of eminent domain, without the prohibition of the Constitution.

In the case of *Jane B. Johnson v. State*, No. 8927*, this Court had occasion to examine and pass upon the controversy involving Wood creek. It was there found: that in the days of the aboriginals of this country, Wood creek was part of a natural system of water communication connecting the Hudson river on the south with Lake Champlain on the north. That it was then a natural water highway between the Hudson river and Lake Champlain, and was used and traversed by the Indians when traveling between these points. When the Europeans came they used it for the same general purposes of public travel and transportation; its freedom for passage and traffic was continued, it was recognized, and the stream remained dedicated to the public by reason of its having been used by the public from time immemorial. The white man found an existing condition and continued it. It was not claimed to be owned nor controlled by any one, nor restricted by any authority for any purpose save that of use by the public. The pioneer, the hunter, the trapper, the civilian and the soldier, the man of peace and the man of war, each went upon and traversed its waters with the same liberty as they would follow their pursuits upon the broad ocean. It was used by the explorer, the settler, the man of business, the courier, the scout and by contending forces in their invasions or retreat.

This continued during the Colonial period to the time when the value of land made the owner wish to hold his property by muniments of title. On the 25th day of September, 1764, there was a crown patent granted, made by King George III, to sundry patentees, of certain land which included the Fenton property in question. These persons were the original predecessors in title of Fenton, and the grant then made is known as the "Artillery Patent." This patent granted 24,000 acres of land to the

* Reported in 13 C. C. 55; affirmed in 151 App. Div. 361.

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patentees named, and contained the following exception or reservation.

“Excepting the said Wood Creek which is reserved as a common highway for the benefit of the public.”

The Colonial authorities were evidently familiar with the situation of Wood creek; that it was then used, and had been used from time immemorial as a common water highway, and the public by reason of such uses had rights in and to it. So by this grant and the exception therein, the Sovereign formally recognized and ratified these rights and made a dedication to the public of Wood creek “which is reserved as a common highway for the benefit of the public.”

By the fortunes of the Revolutionary War, the territory containing Wood creek passed to the State of New York, and the State as the successor of the Crown, received Wood creek “reserved as a common highway for the benefit of the public” charged with the public easement therein, and its dedication as common highway for the benefit of the public. The legal status of Wood creek has not been changed from that time to the present day.

This case, therefore, goes beyond those cases where the State has by public act declared a stream, theretofore not reserved to the public, to be a public highway, for here, Wood creek came to the State dedicated to, or reserved for, the public for the reason that it was, by the first colonial grant, “reserved as a common highway for the benefit of the public” and thereby with navigability impressed upon it.

In *People v. Gutches*, 48 Barb. 656, it was held, where a river, though not navigable, has been declared to be a public highway, the State has the right to control its use, and to prevent the erection of any bridges, or other works, which will obstruct its free passage as a public highway. The Court in its opinion, page 666 says: Where the Legislature has asserted for the State, the right to control a particular river, and has expressly declared it to be a public highway by a public act, the State has the unquestionable right to control the use of the river, and to prevent the

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erection of any bridges * * * which will obstruct the free use of the same as a public highway.

I have examined the cases cited by the claimants' attorneys in their brief, and in my judgment none of them overrule the principle enunciated in this case and some of the cases cited recognize it. To specify the cases would unnecessarily prolong this opinion.

Where the bed of a stream belongs to the State, no person has the right to use the same without its consent. (*Fort Plain v. Smith*, 30 N. Y. 44.)

If my conception of the primal status of Wood creek be accurate, it is: That it was sort of a stream *Ferae Naturae*, open and free to the travel of all, and to the use of the public. Or that when it was reserved as a common highway, it was a kind of a corporeal hereditament, subject to the pre-existing dominant easement in favor of the public, to be used as a common highway.

Freund on Constitutional Rights and Public Policy after remarking that the power over encroachments on water, such as bridges and piers, is governed by the same principles as that over street encroachments (§163), thus expresses the idea. The common use of a street is far more than a license. The use is of the essence of the purpose for which the street exists, for which it has been dedicated, or for which the power of eminent domain has been exercised, it enters into the very nature of a public highway, and the use is so essential to the function of social and economic life, that the full enjoyment of individual liberty and property cannot be conceived without it. It must, therefore, be looked upon as one of the Constitutional rights of the individual, in so far as the individual is part of the general mass of the people which is designated "the public" (§ 165). Such rights may be acquired by reservation, purchase, dedication or condemnation, it may be either an easement or a fee. (§ 160.) (*Freund Constitutional Rights & Public Policy*, §§ 163, 165, 160.)

Wood creek was primarily used as a natural water highway, for traffic, transportation and the necessities or requirements of that period. It was at that time navigable for such boats or crafts as were used upon it. It was a stream where the public

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had used it and exercised a free and unhampered right of passage over it from time immemorial.

By the first recorded grant of Sovereign power in 1764, the Crown recognized this condition and use by the public and it was "reserved as a common highway for the benefit of the public"; it was thereby dedicated to public use and consecrated to the people. The creek by this original patent, was impressed with navigability for if it was a common highway, it could be travelled, and being a water common highway it must be navigable to be travelled, and being reserved to the public as a common water highway, it must be presumed to have been navigable for public purposes for the benefit of the public.

In this case, the State is now utilizing a stream so impressed with navigability, which was a natural water highway passage from the earliest known observation and used by the public as such; taking a creek which was "reserved as a common highway for the benefit of the public" by the original Crown grant; using a stream which was never private property, for an internal improvement in the interest of the public, and improving it for the purpose of navigation, public travel and commerce, and making it part of a new system of the Barge canal of the State of New York.

Let us under such conditions and circumstances see what the law is applicable to this case.

Gould, citing *Woolrych on Waters* 31, says: Waters flowing inland, where the public has been used to exercise a free right of passage from the time whereof the memory of man is not to the contrary, or by virtue of legislative enactment, are public navigable rivers. (*Gould on Waters*, § 53.)

Any stream capable of being used in the transportation of any kind of property, whether in boats, rafts and single pieces, is a public stream and subject to public use. (*Harris Damages by Corpor.*, § 188; *Angell on Highways*, §§ 55, 56.)

Nature is competent to make a river navigable without the aid of the legislature. (*Gould on Waters*, § 54.)

Highways by water are as fully a public use as highways by land * * * and they may be used for the creation of a wholly

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artificial system of navigation by canals. (*Nichols Eminent Domain*, § 224; *Freund Consti. Right & Public Policy*, § 163.)

Canals authorized by public law, are public highways. The towing path of a canal being a public highway the same rule is applicable which governs in respect to acts done upon a public highway. The general doctrine is that any act of an individual done on a highway, though performed on his own soil, if it detracted from safety of travel, is a nuisance. (*Conkling v. Phoenix Mills*, 62 Barb. 299; *Robinson v. Chamberlain*, 34 N. Y. 389.)

Private streams which are navigable are public highways by water, and the rights of riparian proprietors are subject to the paramount right of the public to use and improve the stream as such highway, and subject also to the right of the public to improve the stream as such highway, and subject also to the right of the public to improve the stream for navigation. (*Lewis Eminent Domain*, §§ 69, 71.)

Navigable rivers are public highways. They may be altered, deepened, and their channels changed, and damages resulting from such an improvement are not properly the subject of compensation, resembling in that respect the damages resulting from the improvement of highways. The public have the right to make use of the river as a natural highway, and if the riparian owner is injured by such use, he is without remedy. (*Mills Eminent Domain*, § 80.)

The public right of navigation is paramount upon a private navigable stream, and is as broad and extensive a right as it is upon public waters. It makes no difference in whom the title to the bed may be, it is always subject to the servitude of navigation by the public and to the right of the government to construct works therein in aid of navigation. (§ 166.) Just as the private right of access to the highway is inferior to the public right to grade the street for the benefit of ordinary travel, the private right of access to public waters is inferior to the public right to construct works in aid of navigation whether exercised by the United States or the State. (*Nichols Eminent Domain*, §§ 155, 166.)

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Navigable streams, whether tidal or not, stand on the same footing as public highways and other property devoted to public use. Thus a bridge cannot be thrown across a navigable stream without authority. (*Lewis Eminent Domain*, § 273.)

Anything in a highway which impedes travel, endangers it, or obstructs the free use of the highway, is a nuisance. (*Harris, Damages by Corpor.*, § 187; *Conkling v. Phoenix Mills*, 62 Barb. 299.)

Principles very similar to those governing streets apply to rivers. The right to pass on a river by boat is a common right.

When one takes up his home on a highway, his very right to occupancy rests on the will of the Sovereignty, his being there at all, except as he may use it in common with the public, and in pursuance of the purposes of its dedication, depends on the will of the government. (*Freund Consti. Rights & Public Policy*, § 170.)

It is not disputed that the owner of the fee cannot lawfully maintain permanent structures within the limits of a highway and above its surface, even if they are outside the travelled path and do not interfere with public possession. (*Nichols on Eminent Domain*, § 70; *Randolph on Eminent Domain*, § 75; *Lewis on Eminent Domain*, § 273.)

I trust that the above authorities show that the State was lawfully exercising its paramount right in a navigable stream, and that Wood creek, being a common highway, the claimants had no right to build a bridge over it or maintain a structure across it.

That the condition of Wood creek had changed; that it had practically ceased to be used by the public for navigation with our modern vessels of magnitude, or that the public had practically ceased to use it as a common highway for the purpose of travel — make no difference, the right still exists, and it is, through the improved canal, about to be restored to the public service, to the public use, and rendered capable for modern vessels to navigate it, and for the public to resume its use as a modern common highway. The reservation in the original patent yet remains; the easement created still exists, and its dedication still continues.

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The people have not relinquished their rights and the Sovereign has not extinguished control.

If a road is shut up or disused, it cannot cease to be a public highway, and the public has a right to return to it at any time, and no one has a right to place an obstruction on it, or in any way hinder or impede the travel. (*Harris, Damages by Corpor.*, § 187.)

Streets are held in trust for the public, and a city has no inherent right to surrender or impair the trust. (*Freund on Consti. Rights & Public Policy*, § 161.)

In the case at bar, the State is using Wood creek for the same general purpose for which it was originally used, and for which it was reserved in the Crown patent — that is for public travel.

It has been held that the owner of the fee is not entitled to recover when a canal is laid out as a public highway. By the same process of reasoning, the converse of the proposition should be true, that the owner of the fee should not be entitled to recover if a common water highway is laid out as a canal.

If a certain public easement is substituted for one of the same general nature to which the land is already subject, the owner of the fee is entitled to compensation only to the extent that the new easement is more burdensome than the old, hence the owner of a fee is not entitled to recover if a turnpike is changed into a public highway, or a public highway to a turnpike, or where a canal is laid out as a public highway; and as in Vermont when a railroad was substituted for a plankroad.

In these cases the new use is of the same general nature as the old; *i. e.* public travel. (*Nichols Eminent Domain*, § 132; *Lewis Eminent Domain*, § 271; *Sedgewick on Damages*, § 1152.)

Canals, authorized by public law, are public highways. (*Green on Highways*, p. 115.)

When the Crown made the grant known as the Artillery Patent in 1764, it excepted Wood creek from the operation of the conveyance, and did not part with the title to it. When the State succeeded to the rights of the Crown, after the Revolutionary War, it became possessed of such property as constituted the sovereign

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domain within its boundaries, and the State has never parted by public grant, with such title to Wood creek so obtained. Wood creek then was, and now is, so far as State grants show it, public property. The State is now exercising an existing right on public property, in the construction of a general improvement for the public good.

The exercise of an existing right is not such a taking within the meaning of the Constitution, to entitle the owner to compensation. (*Nichols on Eminent Domain*, § 65; *Mills on Eminent Domain*, § 80.)

One cannot have the remedy provided by law, unless he has suffered damages. (*Randolph on Eminent Domain*, § 369.)

Where property is subject to an easement or servitude in favor of the public, what would otherwise be an invasion or a taking, has been held to be the exercise of a public right, so that no compensation is due. This is the case of improvements made on navigable waters in the interest of navigation. The easements of access and other water rights are subordinate to the public right of navigation and to everything incidental to it, and therefore a riparian owner is not entitled to compensation where his right of access is cut off by a public improvement for the benefit of navigation. (*Freund Consti. Rights & Public Policy*, §§ 509, 408, 409.)

Third: Damages.

The claimants called witnesses as to the value of the leasehold and damages.

Burns, an officer of the company, estimated the value of the lease at \$300,000 (pp. 132, 135). He didn't think that the company could realize that for an assignment of the lease (pp. 134, 5). He figured there were 600,000 yards of rock, and deducting the estimated cost of getting it ready for shipment, from the price it was to be sold for, it left a profit of fifty cents a yard, adding "That is the way, in my mind I got at the value of the property" (p. 143).

This assumes that number of yards of rock were there; that

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the cost of production would remain the same; that it could continue to be sold at the same profit and that a market would exist for the consumption of the 600,000 yards.

Flood, another officer, valued the leasehold at \$300,000 (pp. 32, 34, 35, 56, 61). Without the railroad connection it was practically of no value (p. 33). He had no idea what it could be sold for (pp. 35, 63, 64).

Sherrill, another officer, valued the lease prior to the appropriation of the intervening land, at \$400,000 (pp. 81-3, 90). After the appropriation it was not worth anything to him (p. 81).

MacMartin estimated the value at \$480,000 before the "destruction of the bridge," and since the appropriation, the value of the leasehold at \$90,000 (p. 157).

"There is nothing peculiar about the quarry — in other sections of the country there is plenty of trap rock" (p. 158). He first knew of this trap rock when he sent a geologist to investigate the country, and he reported trap rock at Fort Ann. It was about four years ago (p. 162).

He was an engineer of the Delaware and Hudson Company (p. 149). He knew of the trap rock, yet made no effort to procure a lease from Fenton, from whom Flood and Sherrill secured a twenty year term at the rental mentioned.

The State called witnesses as to value. The testimony of one needs only to be cited; that of the witness Shaper. He estimated the number of yards of trap rock at 100,000 (p. 210), and then gives his reasons for his conclusions that the quarry was of no value. (pp. 210-216.)

When land is injured or damaged, or waters taken, by the construction of a public improvement, the measure of damage is the difference between the market value of the land before and after the injury. (*Joyce on Damages*, §§ 2183, 2184, 2208; *Sedgewick on Damages*, § 1173.)

For the reasons given in the preceding pages, I advise that judgment should be given for the claimant for a small or nominal sum.

* See note on page 213.

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SWIFT, P. J. (concurring). The claimant herein has filed a claim against the State alleging that the State, in the construction of the Barge canal, has cut off the access to a stone quarry near Fort Ann in the county of Washington, and that cutting off the access to said quarry has deprived claimant of its leasehold rights in the quarry, and rendered it much more difficult and expensive for the claimant to market the product of the quarry.

One Charles Fenton was, for a number of years prior to the passage of the act authorizing the construction of the Barge canal, the owner of a tract of land near Fort Ann, Washington county, N. Y., upon which was a quarry commonly known as the "Rice Stone Quarry." It had not been worked for about thirty years. Wood creek runs northerly between the quarry and the D. & H. R. R. station at Fort Ann, and in taking the product of the quarry to Fort Ann for shipment, either by canal or railroad, it is necessary to cross Wood creek. The quarry is half to three-quarters of a mile from the station at Fort Ann. In September, 1904, the State made its survey for the Barge canal along the valley of Wood creek between the quarry and the railroad station at Fort Ann, and stuck the stakes for the center line of the canal, and marked each stake "C. L." for center line, and some of the directors of the claimant knew the survey had been made before the lease was taken of the quarry. On March 14, 1906, Flood and Sherrill took a lease of the quarry from Fenton for the term of ten years, and the lease was by them assigned to the claimant March 24, 1906, and on August 27, 1906, the term of the lease was extended to twenty years. Under the lease all personal property and structures made at the quarry were to be the personal property of the claimant. The notice of the appropriation of Fenton's land by the State was served on January 8, 1907. A spur or siding of the D. & H. R. R. was run from near the railroad station at Fort Ann to the quarry in September, 1906. A crusher and bins for storing crushed stone were constructed near the quarry in the spring of 1907, and after the appropriation of Fenton's land by the State. The siding so constructed crossed Wood creek at a point where no other bridge had ever been erected.

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The stakes were set marking the entire appropriation in July or August, 1906, and before the track was constructed, and the track as constructed crossed the land surveyed and marked for appropriation by the State for the purposes of the Barge canal.

This court has held in the case of Jane B. Johnson against the State* that the title to the bed of Wood Creek was in the State of New York, and we see no reason to change our opinion in this respect. The description and boundaries of Fenton's land along Wood creek is at low water mark, excluding the bed of Wood creek.

The Court of Appeals in 30 N. Y. 44, held, that where the State owns the bed of a stream, no person has a right to interfere with or obstruct the bed of the stream without the consent of the State. This case has been cited and approved in a number of cases since decided in the Court of Appeals. It could not be successfully maintained that Fenton had any rights in the bed of Wood creek superior to that of the State. Neither Fenton, nor his lessees, nor the claimant, nor any other person had any legal right to maintain a railroad across the bed of Wood creek which would interfere with the State's use of the bed of Wood creek for any public purpose.

The title to the bed of Wood creek being in the State, the State had the right without compensation to remove any structure over it which interfered with the use of the bed of Wood creek by the public or the State of New York.

The scheme of the construction of the Barge canal along the valley of Wood creek is to utilize Wood creek and its waters and to straighten the old channel by cutting off points where there were windings in the bed of the creek. It, in fact, takes Wood creek and absorbs it in an improved water way. The State would, undoubtedly, have the right without compensation to use the bed of Wood creek if it followed its windings and turnings and appropriated no other land, but where it takes land outside of the bed of the creek it must make compensation therefor. At the point where this spur of the railroad track crosses the bed of Wood creek on Fenton's property, the original bed of the creek

* Reported in 13 C. C. 55; affirmed in 151 App. Div. 361.

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is not disturbed by the State in the construction of the Barge canal — the canal straightening Wood creek and running some seventy-five feet westerly of the original bed of the creek at that point. The bridge constructed over the bed of Wood creek has not been disturbed by the State, but it remains there by the sufferance of the State.

Counsel for claimant insists that so long as the bridge where it crosses the bed of Wood creek has not been disturbed, that the question of the rights of the State in the bed of the creek has no materiality in this case. The very foundation of value of claimant's leasehold right is, as claimant insists, his absolute right to access to this property by means of the railroad constructed across the bed of Wood creek. I am of the opinion that claimant has no right to maintain such a bridge over property owned by the State which would interfere with the use of the property of the State for a public purpose. If the State has the right without compensation to break the continuity of claimant's road where it crosses the bed of Wood creek, it can add but little injury to break it at a point seventy-five feet distant, although the track over the bed of Wood creek is not disturbed.

But unquestionably the State had appropriated some land outside the bed of Wood creek over which claimant had a right of way under the lease, and I think it would be error to dismiss the claim. I am of the opinion that the damages by reason of this appropriation are nominal. Claimant is certainly limited to such damage as it sustained to its property at the time of its appropriation. At the time of the appropriation there had been no crusher or bins for storing crushed stone erected on the property, and without these the leasehold right of claimant was of little value, and claimant cannot add improvements to property after an appropriation and enhance the value of property and recover compensation therefor from the State.

I am of the opinion that the claimant, through its directors, knew when it took this lease and extension thereof, that a canal was to be constructed by the State between this leasehold property and the railroad station at Fort Ann, and that this track

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was constructed across the surveyed line for the canal with full knowledge of that fact.

Witnesses called by the State, who were men engaged in the business of crushing stone, who had made a careful inspection of this property, and having no interest in any way in the case, put the value of the entire property, of which claimant had a lease, at from six to nine thousand dollars, and that the leasehold rights of claimant were of little or no value.

I have not the slightest confidence in the opinion of witnesses who place the claimant's damages to its leasehold rights in this property at from three hundred to three hundred and ninety thousand dollars.

I am in favor of an award in favor of the claimant and against the State for the sum of one thousand dollars. This award is made upon a careful and personal inspection by the court, and upon the evidence in the case*.

RODENBECK, J. (dissenting.)

The claimant is the lessee of a farm in Washington county, upon the eastern end of which there is a stone quarry. At the western end is the Delaware and Hudson railroad. Wood creek crosses the farm between these two points, but considerably nearer the western end. The claimant leased the quarry and a right of way to the railroad. The State appropriated for the Champlain canal a strip of land comprising 30.66 acres from the western end of the farm, and by so doing cut off access to the railroad from the remainder of the farm. The claimant insists that the only practical and profitable way of transporting the products of the stone quarry to the railroad is by means of a railroad track across Wood creek and the appropriated land, and claims that by intercepting the track of the railroad the State made its lease practically valueless. The State, on the other hand, claims that Wood creek which

* Judgment affirmed in 142 App. Div. 94; 127 N. Y. Supp. 131. The Court of Appeals handed down simply the following memorandum: "Judgment affirmed, with costs, on the ground that under the Artillery Patent the bed of Wood creek was excepted and the title thereto remained in the crown and thereafter passed to the state; no opinion." 205 N. Y. 539.

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was reserved in the State patent "as a common highway for the benefit of the public" could not be crossed by the claimant except with the permission of the State, which the claimant had not obtained, and that the construction of the canal is an improvement of the navigation of the creek within the power of the State to improve navigation without making compensation for consequential damages, and that the claimant is entitled only to the value of its right of way over the appropriated land and such fixtures as it may have attached to the land before the appropriation.

My associates sustain the contention of the State, and I dissent from the award upon the grounds hereinafter stated.

First. It seems to me that the claimant has the right to bridge Wood creek under the language of the reservation in the patent of the State, which excepted the creek as a "common highway."

The title to the land in question comes through a State patent known as Artillery Patent, comprising a part of the township of Fort Ann, dated October 25, 1764, which patent excepts Wood creek as a common highway in the following language: "Excepting the said Wood creek which is reserved as a common highway for the benefit of the public." The creek at that time was undoubtedly navigable in fact, but it was what was then known in law as a non-navigable stream — that is the tide did not ebb and flow in it, and the language of the patent under the common law would not except the fee of the bed of the creek, but would except merely a public easement over the waters of the creek. Under the common law a grant of land bordering upon a non-tidal stream such as this was, carried the title to the middle of the stream unless there was an express reservation. In this instance there is an express reservation, but it is a reservation of the creek for certain purposes, that is, "as a common highway for the use of the public." The fee of the land under the water of the creek went to the patentee under the doctrine of the common law, and by conveyance has come down to the present owner. The first State Constitution preserved all grants of land within the State made by the authority of the King or his predecessors (State Constitution, 1777, Art. 36), and made applicable to the new State such parts of

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the common law of England as formed the law of the colony on April 19, 1775, "subject to such alterations and provisions as the legislature of this State shall from time to time make concerning the same." (State Constitution, 1777, Art. 35.) Subsequent constitutions have likewise made such parts of the common law applicable as formed the law of the colony on April 19, 1775, "which have not since expired or been repealed or altered." (State Constitution, 1821, Art. 7, § 16; State Constitution, 1846, Art. 1, § 17; State Constitution, 1894, Art. 1, § 16.) There has been no constitutional amendment or legislation expressly changing the rule applicable under the common law to the interpretation of grants upon non-tidal streams like Wood creek although the common law of this country has made some modifications of the rule with reference to boundary streams such as the Niagara and St. Lawrence rivers and Lake Champlain. With these exceptions the rule of the common law is in full force, preserved as it is by the express language of the Constitution. The creek is undoubtedly subject to the public easement, and as one of the public the owner of the farm and his lessee have a right of way along and across the creek in such a manner as will not interfere with the rights of the public. The claimant therefore has certain riparian rights as the lessee of the owner of abutting land and as one of the public in the creek which could not be interfered with, and the State because of the reservation in the patent could not prevent the claimant from such a reasonable use of the leased property and such a reasonable exercise of the rights possessed in the creek as might be necessary to the full enjoyment of the leasehold. These riparian rights include not only the right to the use of the waters of the stream, but to the use of the bed of the stream so far as its use does not interfere with the public rights. The rights of the riparian owners survived the navigability of the stream, and when the stream became dry and unnavigable, riparian owners had the right to cross the channel of the stream and if necessary construct a suitable bridge for that purpose. We are dealing in this case with a creek which is not

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navigable in fact, and the bed of which is held by the owners of the upland, and there is ample authority justifying the conclusion that under such circumstances the riparian owners have a right to construct a bridge over the stream and to place piers if necessary in the bed of the stream so long as the public right of way is not interfered with. (*Chenango Bridge Co. v. Paige*, 83 N. Y. 178; *Groat v. Moak*, 94 N. Y. 115.) In the last two cases Judge Earl says: "Any person owning the land upon both sides of such a river (Chenango river) can maintain a ferry or bridge or dam for his own use, provided he does it so as not to interfere with the public easement, without any authority from the legislature, and even in defiance of a legislative prohibition." "Assuming that the river (Susquehanna river) is technically a public highway, it has long since ceased to be practically navigable. Although it was a public highway, subject to the public easement for navigation, the riparian owner had the right to bridge it, or dam it, or do any other act which the riparian owners upon streams not navigable could do, and to enable him to do so he needed no act of the legislature."

Second. The rights of the claimant to construct a bridge across the creek could not be taken from it without making compensation under the guise of the power of the State to improve the navigation of the creek.

In considering this phase of the case it must be borne in mind that we are dealing with a narrow stream, not over fifteen feet in width where it passes through the appropriated land, dry in certain seasons of the year and in certain places, and unnavigable at the time of the appropriation, being reserved by the State "as a common highway for the benefit of the public" in its patent. The reservation, it will be observed, was of the creek as a "common highway," and was for the benefit of the public, which, of course, includes the owners of land along its banks and their lessees.

It must also be kept before the mind that the State proposes to substitute for this narrow creek in which the public and the claimant had an easement as in a common highway, a canal seventy-five feet wide on the bottom and twelve feet deep, owned by the State as its private property, in which the public and adja-

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cent owners will have such rights as may be granted by the State. (State Constitution, Art. 7, § 9.) The state is therefore substituting a new and different highway for the one in existence at the time of the appropriation and is not improving, extending or enlarging the rights possessed in a natural stream by the claimant but destroying those rights and substituting an artificial channel subject to the control of the State.

There is no doubt that there exists in the State a sovereign right with respect to navigable streams which modifies the riparian rights of individuals. The Federal Constitution invests Congress with the power to regulate commerce and this comprehends the power to improve navigation for that purpose. (*Gibbons v. Ogden*, 9 Wheat. 1.) Under this power the State may make certain improvements in streams navigable in fact (*Sage v. Mayor*, 154 N. Y. 61; *Scranton v. Wheeler*, 179 U. S. 141; *Gibson v. U. S.*, 166 U. S. 269); but this power is subject to the further principle that no private property can be taken for public use without just compensation. (Federal Constitution, Art. 5; State Constitution, Art. 1, § 6; *Canal Fund v. Kempshall*, 26 Wend. 404; *Smith v. City of Rochester*, 92 N. Y. 463; *Waller v. State*, 144 N. Y. 579; *Lakeside Paper Co. v. State*, 15 A. D. 169; *Pumpelly v. Green Bay Co.*, 13 Wall. 166; *United States v. Lynah*, 182 U. S. 445; *Lowndes v. United States*, 105 Fed. R. 838).

While these two principles are well understood, difficulties arise in applying them to particular facts. It is often not an easy matter to decide whether the rights affected in a particular case are rights that are recognized as "property" under the Constitution and whether or not the acts of the State constitute a "taking" of these rights.

In this case we are concerned with the appropriation of riparian rights, the State taking from the claimant certain rights in Wood creek which it leased from the owner of the appropriated land.

These riparian rights are "property" under the Constitution. (*Forster v. Scott*, 136 N. Y. 577; *Pape v. N. Y. & Harlem R. R.*

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Co., 74 A. D. 175.) Easements of light, air and access appurtenant to abutting lots have been held to be property rights protected by the Constitution where the State authorized the construction of an elevated railroad in a public highway. (*Story v. N. Y. E. R. R. Co.*, 90 N. Y. 122; *Lahr v. Met. El. R. R. Co.*, 104 N. Y. 268; *Reining v. N. Y. L. & W. R. R. Co.*, 128 N. Y. 157; *Muhlker v. Harlem R. R. Co.*, 197 U. S. 568.) A vault under a sidewalk in a city constructed with the permission of the city authorities by the owner of the abutting building is property. (*Matter of Brooklyn Union El. R. R. Co.*, 105 A. D. 111; *Parish v. Baird*, 160 N. Y. 302.) A franchise to take tolls for the use of certain locks and dams which had been constructed and maintained under competent authority by a navigation company is property. (*Monongahela Navigation Co. v. United States*, 148 U. S. 341.) A ferry franchise is property. (*Mayor v. Starin*, 106 N. Y. 1.) A franchise granted by a municipality to operate a street railway in a public highway is property. (*People v. O'Brien*, 111 N. Y. 1; *Sixth Ave. R. R. Co. v. Kerr*, 72 N. Y. 330; *People v. Sturtervant*, 9 N. Y. 263.) Riparian rights are property. (Lewis, *Eminent Domain*, §§ 68, 73; Gould on *Waters*, § 204; Cooley *Constitutional Limitations*, 7th ed., p. 863; *Morgan v. King*, 35 N. Y. 454.) The right of access to tide water from land originally under water upon which a wharf had been built granted with the right of wharfage is property. (*Langdon v. Mayor*, 93 N. Y. 159.) The right of access of upland owners to a tide water river or body of water is property. (*Rumsey v. N. Y. & N. E. R. R. Co.*, 133 N. Y. 79; *Saunders v. N. Y. C. & H. R. R. R. Co.*, 144 N. Y. 75; *Town of Brookhaven v. Smith*, 188 N. Y. 74; *Matter of City of New York*, 168 N. Y. 123.)

The riparian rights in this case being a "property" right they can not be taken by the State under the circumstances of this case without compensation.

In the case before us the State does not confine its improvement to the bed of the stream but annihilates a natural stream and substitutes another and artificial channel. The creek being only about fifteen feet wide was easily spanned by a bridge but

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the construction of a bridge over a canal one hundred or more feet wide by the owner of a farm through which it passes even if the State consented to its construction, is prohibitive on account of the expense. If the claimant had the same rights in the canal that it had in the creek there might be some equity in the claim that it would not be entitled to compensation, but its rights in the canal will be far different from those that it possessed in Wood creek. The latter was a stream unnavigable at the time of the appropriation reserved as a "common" highway. The proposed canal will be an artificial channel owned by the State with such rights in the claimant, as the lessee of the abutting owner, as the State may see fit to grant. Under such facts there was a taking of the claimant's riparian rights which included the right of passage and the right to construct a bridge over the creek.

It may be stated as a rule that where there is a physical invasion of property, whether in the exercise of the power of eminent domain or under the authority of the State to improve navigation, compensation must be made. Gould on Waters states this rule as follows: "So the diversion, pollution or other use of a private stream by public authorities impairing or destroying the rights of riparian owners to the water is a taking for which compensation must be provided" (§ 243). Lewis in his work on Eminent Domain says: "According to principles heretofore laid down it follows that any injury to riparian rights for public use is a taking for which compensation must be made" (2d ed., § 84.) (See also *Gilzinger v. Saugerties Water Co.*, 66 Hun, 172, aff. 142 N. Y. 633; *Crooker v. Bragg*, 10 Wend. 260; *Commissioners of Canal Fund v. Kempshall*, 26 Wend. 403.)

In *Yates v. Milwaukee*, 10 Wall. 497, the court said:

"On the whole we are of opinion that Shepardson, as riparian owner of a lot bounded by a navigable stream, had a right to erect this wharf, and that Yates, the appellant, whether he be regarded as purchaser or as licensee, has the same right; and that if the authorities of the city of Milwaukee deem its removal necessary in the prosecution of any general scheme of widening the channel and improving the navigation of the Milwaukee river, they must first make him compensation for his property so taken for the public use." (p. 507.)

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Cooley on Constitutional Limitations says:

‘ “Although the regulation of a navigable stream will give to the persons incidentally affected no right to compensation, yet if the stream is diverted from its natural course, so that those entitled to its benefits are prevented from making use of it as before, the deprivation of this right is a taking which entitles them to compensation, notwithstanding the taking may be for the purpose of creating another and more valuable channel of navigation. The owners of land over which such a stream flows, although they do not own the flowing water itself, yet have a property in the use of that water as it flows past them, for the purpose of producing mechanical power, or for any of the other purposes for which they can make it available, without depriving those below them of the like use, or encroaching upon the rights of those above; and this property is equally protected with any of a more tangible character.” (7th ed., p. 807.)

The riparian rights of the claimant being property rights and the improvement being made by the State constituting a taking of these rights, compensation must be made therefor.

The tendency of judicial construction is to give full force to the provisions of the Constitution of the United States and the several States requiring compensation to be made where private property is taken for public use, whether such use is required for the improvement of a private stream or body of water or in the construction of an enterprise not associated with water courses. In *Scranton v. Wheeler, supra*, in his dissenting opinion Mr. Justice Shiras, with reference to the right of access to a stream in which the owner of the upland had no title to the bed of the stream, says: “I think this question may well be answered in the words of Gould in his work on Waters (2d ed., p. 151): ‘When it is conceded that riparian rights are property the question as to the right to take them away without compensation would appear to be at an end.’”

The views herein expressed seem to have been those entertained by the State when it began its proceedings to acquire the title to the land occupied by claimant. It did not purport to proceed under its power to improve the navigation of Wood creek, but proceeded under its power of eminent domain (Barge Canal Act, L. 1903, ch. 147).

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Conceding that the State has taken the rights of claimant in Wood creek under its power to improve navigation, the State also had power to provide for compensation as it seems to have done in this case. (*O'Connor v. Pittsburgh*, 19 Pa. St. 190; *Transportation Co. v. Chicago*, 99 U. S. 635; *United States v. Alexander*, 148 U. S. 186; *People v. N. Y., O. & W. R. R. Co.*, 133 A. D. 476.)

Third. If the views herein expressed are correct the damages awarded the claimant are inadequate, but it does not follow that the claimant is entitled to the damages which it sought to prove upon the trial since those damages were based upon the proposition that it is entitled to recover for the loss of profits.

There are many cases allowing profits for the breach of a contract and even in cases of tort (*Lakeside Paper Co. v. State*, 45 A. D. 113; *Bates v. Holbrook*, 89 A. D. 548; *Egan v. Browne*, 128 A. D. 184; *Bagley v. Smith*, 10 N. Y. 489; *Snow v. Pulitzer*, 142 N. Y. 263; *Danolds v. State*, 89 N. Y. 36); but there are also cases holding that loss of profits are not recoverable. (*Moravec v. Grell*, 78 A. D. 146; *Hoffman v. Edison Electric Illuminating Co.*, 87 A. D. 371; *Griffin v. Colver*, 16 N. Y. 489; *Wehle v. Haviland*, 69 N. Y. 448; *Witherbee v. Meyer*, 155 N. Y. 446; *Reisert v. City of New York*, 174 N. Y. 196.)

The rule deducible from these cases is that loss of profits is not recoverable where the profits are too remote, uncertain and not the direct and immediate result of the acts complained of (*Witherbee v. Meyer*, 155 N. Y. 446); and if this is the rule in cases arising out of a contract or in tort, how much more rigidly should it be applied in cases of eminent domain where the appropriations are made for the public good. (Lewis, *Eminent Domain*, 2d ed., § 487; 15 Cyc. 733, 735.)

The true rule for measuring claimant's damages, assuming that it had the right to bridge the creek and that the State could not take away this right without compensation under its power to improve navigation, is the difference in the market value of its leasehold interest before and after the appropriation.

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In this case the lease provides that the structures placed upon the property shall be considered personal property removable by the lessee at the expiration or termination of the lease. Most of the structures were placed upon the property after the appropriation and can not therefore be taken into consideration in estimating the damages; but so far as the claimant had placed upon the property structures affixed to the soil more or less permanent in character even though denominated personal property in the lease it is entitled to have them considered in fixing the damages. (*Appointment of Park Comrs.*, 1 N. Y. Supp. 763; *Matter of City of N. Y.*, 130 A. D. 600.) The rule for measuring the compensation is not changed by the fact that improvements had been made upon the property by the tenant prior to the appropriation.

Where the whole property is appropriated and no benefits are involved the question is, what was the market value of the property at the time of the appropriation taking into account all improvements upon it which form a part of the realty whether made by the owner or the tenant. Having determined the compensation of the owner the question then is, what was the market value of the lease at the time of the appropriation taking the permanent improvements made upon the property into consideration however the owner and tenant may have designated these improvements in the lease. If the market value of the lease exceeds the rent and other consideration which the tenant was required to pay for the remainder of the term, he then suffers a loss as a result of the appropriation. If the market value of the lease equals or is less than the rental and other considerations for the unexpired term of the lease, no damages were occasioned to him. The owner receives the market value of the property which makes him good for any rent which he could have received had the appropriation not taken place and the tenant being relieved by the appropriation from the payment of rent, he suffers no loss, unless the rental value of the property has risen since the making of the lease or he drove a good bargain in making the lease. In the latter case the tenant is entitled to the

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difference between the market value of the lease for the unexpired term and the actual rental and other consideration which he would have been required to pay for the unexpired term under the lease. The amount thus arrived at as the damages of the tenant must come out of the damages to the fee since the lease is an incumbrance which the owner has placed upon the fee and reduces the value of the fee to that extent. (*Lewis Eminent Domain*, 2nd ed., § 483; *Matter of N. Y., W. S. & B. R. R. Co.*, 34 Hun, 638; *Matter of City of New York*, 120 A. D. 701.)

Where only a part of the property is taken the measure of damages is the same as when the whole of the property is taken. It is a question of the market value of the property and of the leasehold before and after the appropriation. So far as the owner is concerned, the difference between the market value of the property before and after the appropriation is the compensation to be allowed for the fee taken and in appraising these damages all improvements which have become a part of the realty must be considered whether placed there by the owner or by the tenant. The difference thus arrived at is all that the State can be required to pay for the appropriation and out of it must come all liens and incumbrances upon the fee including leasehold interests. (*Lewis, Eminent Domain*, 2nd ed., § 483.) In determining the damages to the liens and incumbrances the same rule applies and compensation must be made which will represent the depreciation in the market value due to the appropriation. In the case of a lease another calculation comes in since there must be an estimate of the depreciation in the lease rental value as well as an estimate of the depreciation of the market rental value. The difference in the market rental value of the lease does not represent the amount of compensation for a tenant is not liable for the payment of any rent or other consideration for the part taken. (*Lewis Eminent Domain*, § 483; *Lodge v. Martin*, 31 A. D. 13; *Gillespie v. Thomas*, 15 Wend. 464; *Matter of Daly*, 29 A. D. 286.) The depreciation in the lease rental value is not the measure of the damages for the market rental value of the property may

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be more than the amount agreed to be paid. If the market rental value is greater than the lease rental value the tenant will suffer a loss, otherwise not. If the market rental value is the same or less than the lease rental value it is merely a question of apportioning the rent and other consideration where part of the property is taken and relieving the tenant equitably from all rent and other consideration for the part taken. The question therefore as to a tenant, where a part only of the premises is taken, is, first, what was the market rental value of the property before and after the appropriation, and secondly, what was the lease rental value before and after the appropriation. The difference in the lease rental value will be the amount which the tenant will be required to pay for the use of the land remaining and the amount of the lease rental value of which he will be relieved must come out of the difference between the market rental value before and after the appropriation. These considerations must be taken into account by the witness in estimating the compensation to which the tenant is entitled and are included in answering the question as to the market rental value of the leasehold before and after the appropriation. In answering this question the witness is supposed to take into account not only the market rental value of the lease but the fact that there may be an apportionment of the consideration named in the lease for the unexpired term including the rent agreed to be paid as well as taxes, renewals and other considerations. The question to be put to the witness therefore is, what was the market rental value of the leasehold before and after the appropriation and if he has taken all proper considerations into account, his answer will represent the tenant's compensation. Where benefits are involved the actual value of the land taken must be allowed, and the benefits, if any, must be offset against the remainder of the property (*Matter of City of New York*, 190 N. Y. 350), and there is no reason why this rule cannot be applied in determining the damage to liens and incumbrances including leasehold interests where benefits must be taken into account.

Fourth. The owner of the leased premises in this claim is

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entitled to be heard upon any questions connected with his interest, since the lease is an interest in the fee and the compensation awarded must come out of that allowed to the owner for the taking of the fee and will reduce to that extent the compensation to which he may be entitled.

No award can bind the owner until he has been brought into court and given an opportunity to protect his interest. Due process of law requires that he shall be given a day in court. He was not a party to the claim and his claim has not been considered. He should be brought in by order of the court. The abstract shows that he had assigned his interest to the tenant before the filing of the claim. The claim filed by the tenant, however, is only for the damages to the leasehold. The interests of the owner were not considered at the hearing. The case was tried upon the apparent assumption that the owner's claim was still to be adjusted. Whether or not his claim has been assigned, he should be brought in as a party so that any question as to his compensation, or as to the validity of the assignment, or the lease itself, or its construction, may be finally passed upon and the interests of the State thus protected. The necessity for giving the owner an opportunity to be heard seems to have been in the mind of the learned Attorney-General, for at the opening of the trial a motion was made on behalf of the State that the owner of the premises be brought in as a party so that all of the persons interested in the appropriated land might be before the court. This motion was denied and its denial presents a serious question as to whether or not the court can make a valid award to the claimant.

It is not necessary at this time to discuss the question as to the jurisdiction of the court to pass upon issues that may arise in appropriation cases between parties having an interest in the land and making claims against the State. It might be contended that the jurisdiction conferred upon the court by the statutes authorizing it to pass upon claims against the State and to fix the compensation for land taken vests in the court jurisdiction to pass upon all incidental questions that might arise between parties

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making claims for compensation in connection with the same parcel of land, but many strong reasons might be advanced why an appraiser, board or court or other body by whatsoever name could not be vested with authority to try such issues in view of the judiciary article of the Constitution creating courts for the trial of disputes between citizens. This question of jurisdiction, however, may be reserved until it is more squarely presented than it is at this stage of the claim and it is sufficient to say just now that before any issues between the owner and the tenant are passed upon, the interest of the State requires that the owner should be made a party and should be given an opportunity to be heard. It may be said in conclusion, however, that where the owner has been made a party to a proceeding brought by a tenant, and consents to have the issues between him and his tenant determined by the Court of Claims, the court has jurisdiction to pass upon the issues involved between them (*Code of Civil Procedure*, § 281; *People ex rel. Platt v. Rice*, 144 N. Y. 249; *Matter of Porter*, 34 A. D. 150; *Anderson v. Reilly*, 66 N. Y. 189.)

The award therefore is erroneous because the court has disregarded the rights of the claimant in Wood creek and the compensation should not be fixed until the owner has been made a party and has been given an opportunity to be heard upon all the issues involved which are cognizable by this court.*

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Claim No. 9277.

Claim for Appropriation of Property Owned by Claimant, a Railroad, for Terminal Facilities.

Where part only of premises is taken and there is no question of benefits involved, the compensation to be awarded a claimant may be measured either by the difference in the market value of the property before and after the

* See note on page 213.

† Reported in 66 Misc. 432; 123 N. Y. Supp. 378.

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appropriation or by the market value of the part actually taken plus the damages to the remainder of the property, of which the appropriated land formed a part.

Where benefits are involved the better rule is to ascertain the value of the property taken, which amount at least must be allowed, and then determine the damages to the balance of the property, offsetting against these damages any benefits from the improvement.

(Decided February 10, 1910.)

Kenefick, Cooke, Mitchell and Bass, for claimant.

The Attorney-General, for the State.

RODENBECK, J. The claimant is a railroad corporation owning terminal facilities in the city of Rochester on what is known as the "Island" bounded by the Genesee river on the west and the Erie canal and Erie canal feeder on the east. The State has appropriated about half an acre of land belonging to the claimant fronting on Griffith street and the Erie canal. The property has a frontage on Griffith street of 97.25 feet, a width in the rear of 57.8 feet and extends back about 298 feet. Adjoining this property on the west is a plot of ground upon which the passenger station of the claimant formerly stood. Griffith street is one of the main highway approaches to the Island and crosses the Erie canal by means of a bridge. The State owns property north of the appropriated land and desires to add this parcel to its holdings. The witnesses on behalf of the claimant placed the valuation at from \$12,600 to \$15,000 and those for the State appraised it at from \$3,000 to \$4,000. The witnesses were asked to give the market value of the land appropriated. In this proceeding however the court must ascertain the compensation to which the claimant is entitled and this compensation is not necessarily measured by the market value of the land actually taken. It may be true that land quite as desirable for certain purposes may be had for \$3,000 or \$4,000 but there is an element of damage to the remainder of the property of the claimant which must be taken into account in estimating the compensation to which it is entitled under the Constitution. It is quite likely that a person desiring to purchase this property might not be willing to give much more than the estimate placed upon it by the State's witnesses but this market value must be supplemented by any damages that the

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remainder of the property of the claimant sustains. It is quite customary to ascertain the compensation in proceedings of this character by asking witnesses the value of the property before and after the appropriation, the difference being the amount of compensation. By this method witnesses may or may not offset benefits which can only be determined upon cross-examination. In some cases these benefits may exceed the value of the land taken and the damages to the remainder of the property in which case only a nominal award could be made. It has been held however that where benefits are involved the owner is entitled at least to the value of the property actually taken (*Matter of City of New York*, 190 N. Y. 360) and in such cases the above method for ascertaining the compensation may not be the correct one. Where benefits are involved the better rule is to ascertain the value of the property taken, which amount at least must be allowed, and then determine the damages to the balance of the property, offsetting against these damages any benefits from the improvement. With respect to offsetting benefits against the damages to the balance of the property Judge Cullen said in the case above cited: "That benefits may not be set off against consequential damages to the part of the land not taken I do not assert. On the contrary, this would generally accomplish an equitable result (*Newman v. Metropolitan El. Ry. Co.*, 118 N. Y. 618; *Bohm v. Metr. El. Ry. Co.*, 129 N. Y. 576), but this much we can hold, and I think we should hold, that in no case should an award be made for less than the value of the property actually taken by condemnation." (p. 360.) In this case, however, no benefits from the taking of the land are involved and therefore either rule might have been adopted. Upon the basis of either of the rules above considered the claimant is entitled to the market value of the land actually taken and in addition thereto to the damages occasioned to the remainder of the property of which the appropriated land formed a part. Upon this basis the claimant is entitled to an award of \$9,000 together with the expense of procuring abstracts of title with interest from the date of the appropriation.

All concur.

Opinion by Rodenbeck, J.

HATTIE A. VINCENT, Claimant, *v.* THE STATE OF NEW YORK.

Claim No. 9488.

Claim for Permanent Appropriation of Property.

Where the State appropriated farm land which deprived claimant of access to the Oneida river, an allowance in the award must be made for this fact. No claim having been made for the expense of procuring a search no allowance should be made therefor.

(Decided March 3, 1910.)

Hugo Hirsch, for claimant.

The Attorney-General, for the State.

RODENBECK, J. The claimant is the owner of a farm in the town of Cicero, county of Onondaga, of which the State appropriated 1.34 acres being a strip of land lying along the Oneida river. The appropriation was made August 31, 1908, and the claim was filed March 27, 1909. The appropriation deprives the claimant of access to the Oneida river and some allowance in the award must be made for this fact. The land taken is worth \$90 an acre and making due allowance for damages to the remainder of the farm an award of \$320 fairly represents the compensation to which the claimant is entitled. No claim was made for the expense of procuring a search and no allowance should be made therefor.

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Claim No. 9308.

Claim for Permanent Appropriation of Property.

Where the State appropriated land upon which were a house, barn, boat-house and hogpens, the land appropriated being used for the renting of boats, *Held*, that the fact that the property was available and used for the renting

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of boats could be taken into account in estimating the value of the property, but the claimant could not be allowed damages for loss of business or loss of profits.

(Decided March 3, 1910.)

Hugo Hirsh, for claimant.

The Attorney-General, for the State.

RODENBECK, J. This is a claim for permanently appropriating .143 acre of land in the village of Brewerton, county of Onondaga. The appropriation was made November 12, 1907, and the claim was filed November 30, 1908. The appropriation is the rear end of a village lot situate on Benton street having a frontage of about 90 feet and a depth of about 150 feet. The buildings upon the property consist of a house, barn, boathouse and hogpens. The lot abuts upon the Oneida river and the rear 70 feet upon which the boathouse and hogpen were situate was appropriated by the State. The owner used the portion of the land appropriated in connection with the business of renting out boats. The estimate of damages for the appropriation varies from \$350 to \$1,300 which may be accounted for somewhat by the fact that the witnesses for the claimant took into account the loss to the claimant for the destruction of her business. The fact that the property was available and used for the renting of boats may be taken into account in estimating the value of the property, but the claimant cannot be allowed for damages for the loss of business or the loss of profits. The land taken is worth \$50, the boathouse \$75, the hogpen \$15 and other damages are estimated at \$300, making a total award of \$440. No claim is made for a search and no allowance should be made therefor.

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MARTIN J. MORONEY v. STATE OF NEW YORK.*

Claim No. 9784.

Claims of Landlord and Tenant for Property Appropriated by the State.

Where the owner of land appropriated by the State has made a settlement with the State through the State appraiser as to the compensation to be paid him which has however not been paid, and one claiming to have been the lessee of the premises at the time of the appropriation files a claim to have the amount of his damages determined, his remedy is against the fund created by the settlement and not against the State. (*Förster v. Scott*, 136 N. Y. 577; *Matter of W. S. & B. R. R. Co.*, 34 Hun 632; *Matter of City of New York*, 129 A. D. 700.)

The Court of Claims has no jurisdiction to determine a dispute as to the validity of a lease or the amount of the damages to a tenant where the owner of the land appropriated has made a settlement with the State through the State appraiser and has not been paid and has not been made a party to the proceeding and has not consented to have the issues between him and his tenant passed upon by the court. (*Alexander v. Bennett*, 60 N. Y. 204; *Anderson v. Reilly*, 66 N. Y. 189; *DeHart v. Hatch*, 3 Hun 375; *State v. County of Kings*, 125 N. Y. 312; *Mussen v. Ausable Granite Works*, 63 Hun 367; *Getman v. Mayor, etc., of New York*, 66 Hun 236; *City of Brooklyn v. Mayor of New York*, 25 Hun 612; *Bell v. Niewahner*, 54 A. D. 530; *People ex rel. Mayor v. Nichols*, 79 N. Y. 582; *People ex rel. Hill v. Supervisors*, 49 Hun 476; *People v. Coughtry*, 58 Hun 245; State Constitution, Art. 3, § 19, Art 1, § 7; Canal Law, §§ 47, 88; *Code of Civil Procedure*, §§ 246, 281, 269; L. 1876, ch. 444 L. 1883, ch. 205; L. 1897, ch. 36; L. 1903, ch. 147, § 4; L. 1908, ch. 196; *City of Geneva v. Henson*, 128 N. Y. 345; *Matter of William and Anthony Streets*, 19 Wend. 678.)

Where, however, in such a case the owner is made a party to the proceeding brought by the tenant and consents to have the issues between him and his tenant determined, the court has jurisdiction to pass upon the issues involved between them. (*People ex rel. Platt v. Rice*, 144 N. Y. 249; *Matter of Porter*, 34 A. D. 150; *Anderson v. Reilly*, 66 N. Y. 189; *Code of Civil Procedure*, § 281.)

Decided March 9, 1910.)

Barnum and Wells, for the claimant.*The Attorney-General*, for the State.

* Reported in 67 Misc. 58; 124 N. Y. Supp. 824.

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RODENBECK, J. The claimant's remedy in this claim is against the fund representing the property appropriated and not against the State.

He claims to have been a tenant of the property at the time of the appropriation having produced in court a written lease dated March 31, 1906, for five years expiring March 31, 1911, leaving an unexpired term of two years, nine months and twenty-six days. The lease was recorded April 30, 1909, after the appropriation of the property, June 5, 1908, and after its purchase by the then owner. The lease was made between Daniel E. Rairdon, owner, and Frank J. Lester and the claimant, as copartners, for carrying on a blacksmith business on the appropriated property. Before the appropriation Rairdon had sold the property to one Sheridan and he in turn had conveyed it to E. G. Heaton who was the owner at the time of the appropriation. After the appropriation but before the filing of the claim Lester had executed a bill of sale to Moroney. From the date of the lease to the date of the appropriation Lester and Moroney, as copartners, or Moroney, alone, were in possession and paid a monthly rent of \$6.25, this amount being paid for a period of time to E. G. Heaton who disputes the lease and claim of Moroney. The entire property was appropriated by the State and the owner made a settlement with the State appraiser the amount of which has not been paid. The owner was not made a party to the present claim and has therefore not consented to have any issues between himself and the claimant determined by the Court of Claims.

Under this state of facts the claimant's remedy is against the fund in the hands of the State and not against the State.

The State's settlement includes an adjustment of all of the damages for the appropriation of the property and out of the amount agreed upon, in the absence of any agreement to the contrary, must come all of the liens and incumbrances against the property. The lease is an incumbrance (*Forster v. Scott*, 136 N. Y. 577), and unless there was some fraud or misrepresentation or misunderstanding when the agreement was made with the State appraiser the value of the leasehold interest must come out

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of the amount agreed to be paid to the owner. A situation like this is provided for in the Canal Law which says that "when damages are awarded for the appropriation of any lands or waters to the use of the canal and it appears that there is any lien or incumbrance on the property so appropriated, the comptroller may deposit the amount awarded in any bank in which moneys belonging to such account may be deposited to the account of such award, to be distributed to the persons entitled to the same on an application to the Supreme Court of any person." (§ 88.)

If this conclusion is erroneous and the claimant has the right to ask this court to fix the value of his leasehold he must bring the owner of the premises into court and make him a party to this proceeding. Upon the question of the value of the leasehold the value of which must come out of the compensation allowed for the fee, the owner is entitled to be heard. In this case there is not only a dispute as to the value of the lease but also one as to its validity and upon both of these questions the owner is entitled to be heard. There is ample power in the court to order the owner to be made a party to the proceeding and when thus brought in the value of the lease may be fixed by the court provided the owner consents thereto. (*Code of Civil Procedure*, § 281.)

But if the owner when made a party to the proceeding does not consent to have his dispute with the claimant passed upon by this court another serious question arises as to the power of this court to pass upon such questions.

The Court of Claims is not referred to by name in the Constitution but it has a constitutional existence by virtue of the provision in the Constitution which prohibits the Legislature from auditing or allowing any private claim or account against the State and authorizes it to make appropriations to pay claims when they shall have been audited and allowed according to law (State Constitution, Art. 3, § 19); and the provision which says that when private property is taken for a public use, the compensation to be made therefor shall be determined by a jury or by not less than three commissioners appointed by a court of record as shall be prescribed by law except when such compensation is made by the State. (Art. 1, § 7.)

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The former provision was inserted in the Constitution by a vote of the people November 3, 1874, and went into effect January 1, 1875. There had existed prior to that time for many years canal appraisers who passed upon allowances for appropriations and certain claims connected with the canals and the Legislature previously had audited and allowed claims of other character but after the adoption of this provision of the Constitution the State Board of Audit was created consisting of the Comptroller, the Secretary of State and the State Treasurer, whose duty it was to hear all private claims and accounts against the State except such as were heard by the canal appraisers. (L. 1876, ch. 444.) In 1883 the canal appraisers and State Board of Audit were abolished and the Board of Claims was created with jurisdiction to hear, audit and determine all private claims against the State which shall have accrued within two years. (L. 1883, ch. 205.) In 1897 the Board of Claims was abolished and the Court of Claims was created with all the powers and jurisdiction of the Board of Claims and jurisdiction generally to hear and determine private claims against the State which shall have accrued within two years before the filing of the claim. (L. 1897, ch. 36.) The latter statute was an amendment of the Code of Civil Procedure and contains the further provision that the court may bring in parties necessary to the complete determination of a controversy in matters over which the court has jurisdiction and may render judgment for or against any of the parties as may be equitable. (*Code of Civil Procedure*, § 281.) The Constitution of 1895 therefore left open the whole matter of the creation of an appraiser, board or court to determine claims against the State including claims that might arise out of the exercise of its power of eminent domain. In the exercise of this power the Legislature has vested the Court of Claims by provisions of the Code of Civil Procedure, the Barge Canal Act and other statutes with power to pass upon certain private claims against the State including appropriations in connection with the Barge canal.

It might be contended from the foregoing that notwithstanding the provisions of the judiciary article creating courts for the

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determination of controversies between citizens (State Constitution, Art. 6), this court has not only the power conferred upon it by statute to pass upon the amount of damages to be allowed in appropriation cases but the implied jurisdiction to pass upon all incidental questions that may arise in connection with the exercise of this power including disputes between two parties over a parcel of land which has been appropriated each of whom makes a claim against the State. If this contention is correct and there is that inherent power in the court derived from the general jurisdiction conferred upon it, the court would have power in this instance without the consent of the owner to pass upon the amount of the tenant's interest after the owner has been made a party to the proceeding and given an opportunity to be heard.

As against this view, however, there is the further position that this court, being a statutory court, has only such powers as are conferred upon it by the statute creating it and which come within the authority of the Legislature to enact and that it can not pass upon any disputes between citizens which under the Constitution are triable in the ordinary constitutional courts.

The judiciary system is provided for in the State Constitution and it vests the Supreme Court with general jurisdiction in law and equity. (State Constitution, Art. 6.) This language forbids the transference of this jurisdiction to other courts so as to restrict citizens in the right thus granted to them. In the case of *State v. County of Kings*, 125 N. Y. 312, the State undertook to authorize the Board of Claims to determine a claim of the State against certain counties. The case did not turn upon the constitutional right of the Legislature to permit the State to sue the counties in a court of its own creation but upon this question Chief Judge Ruger said: "We do not question the fact that the Board of Claims is a constitutional tribunal and is lawfully authorized to determine claims against the State which may have been referred to it but it does not follow that the Legislature can compel citizens to appear before it and litigate claims made by the State or any other party against them. * * * This however does not necessarily authorize the Legislature to create a

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judicial tribunal of general jurisdiction to hear and determine legal questions which are cognizable in the regular constitutional tribunals of the State." (p. 322.) A long list of cases affirms the doctrine that the Constitution confers upon the Supreme Court general jurisdiction in law and equity and that the Legislature has no power to abridge or limit such jurisdiction either with or without the consent of that court. (*De Hart v. Hatch*, 3 Hun 375; *Anderson v. Reilly*, 66 N. Y. 189; *Alexander v. Bennett*, 60 N. Y. 204.)

In *Alexander v. Bennett*, *supra*, Judge Rapallo said:

"The jurisdiction which the Constitution preserves in the courts named is inalienable, and carries with it the corresponding duty on the part of those courts to exercise it, when called upon in proper form, so to do. The constitutional provision protects the parties to an action, brought in either of those courts, in the right to require it to adjudicate the controversy between them. If the act of 1874 had required the consent of all the parties to the action as well as of the court, to the transfer of jurisdiction over it to another court, a different question would be presented. But this act purports to confer upon the court the power to transfer its jurisdiction over any action of its own motion, and without any reason, and even against the protest of all the parties. This, in my judgment, deprives litigants of a right to invoke the action of a tribunal provided for them by the Constitution and violates the spirit and intent of that instrument." (p. 207.)

Numerous other authorities for this proposition might be cited. (*Mussen v. Ausable Granite Works*, 63 Hun 367; *Getman v. Mayor, etc., of New York*, 66 Hun 236; *City of Brooklyn v. Mayor of New York*, 25 Hun 612; *Bell v. Niewahner*, 54 A. D. 530; *People ex rel. Mayor v. Nichols*, 79 N. Y. 582; *People ex rel. Hill v. Supervisors*, 49 Hun 476; *People v. Coughtry*, 55 Hun 245.)

It would seem from these authorities that the Legislature has no power to create a court wherein suitors are compelled to try issues without consent which they have a constitutional right to try in the regular courts and there is nothing in the act creating the Court of Claims which indicates an intention on the part of the Legislature to compel suitors to try issues between them in that court.

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The Court of Claims was created to try claims against the State, and if the Legislature has given it broader jurisdiction, it was undoubtedly the intention that this jurisdiction should be exercised only in cases where the parties consented to submit their issues to the Court of Claims rather than to a court to which they had a constitutional right to apply. Section 246 of the Code of Civil Procedure provides that the court shall have jurisdiction to hear and determine a "private claim against the state" but section 281 seems to confer upon the court a broader jurisdiction. It provides that the court may order parties to be brought in and made parties to any action or proceeding pending in the court whenever it is made to appear that they are necessary to a complete determination of the controversy or the determination of a liability in matters over which the court may have jurisdiction and that in such cases the court "may render judgment for or against any of the parties in such action or proceeding as may be just and equitable." This language would seem to confer upon the court jurisdiction over controversies between private citizens wherever their controversies are involved in the determination of the liability of the State, but the section must be construed to mean that such jurisdiction can be exercised only in cases where the parties consent to have issues between them determined in the Court of Claims. There is no legal objection to giving the Court of Claims this jurisdiction and to its exercising it providing the parties consent thereto. While jurisdiction can not be created by the consent of parties where the Constitution or the Legislature has not conferred it (*People ex rel. Platt v. Rice*, 144 N. Y. 249; *Matter of Porter*, 34 A. D., 150), it may be waived where it exists (*Anderson v. Reilly*, 66 N. Y. 189), and where the Constitution confers upon certain courts jurisdiction to try certain issues and the Legislature confers upon the Court of Claims jurisdiction to pass upon the same issues where they are involved in a claim made against the State, the parties may waive their constitutional right to have the issues determined in the regular courts and submit themselves to the jurisdiction of the Court of Claims (*Anderson v. Reilly*, 66 N. Y. 189.)

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There is evidence running through the statutes relating to the jurisdiction of the Court of Claims that the Legislature had in mind the limitation upon its power to confer, without the consent of the parties, jurisdiction upon the Court of Claims in controversies between citizens. The Barge Canal Act gives the court "jurisdiction to determine the amount of compensation for lands, structures and waters so appropriated." (L. 1903, ch. 147, § 4.) Section 269 of the Code of Civil Procedure provides that "where damages are awarded for the permanent appropriation of land for the public use there shall also be filed with the comptroller a satisfactory abstract of title and certificate of search as to incumbrances showing the person demanding such damages to be legally entitled thereto." The Barge Canal Act, under which this claim was filed, provides that "the attorney-general shall furnish to the comptroller and state treasurer all searches necessary to prove the title to the lands taken." (L. 1908, ch. 196.) Section 47 of the Canal Law, relating to claims for damages for appropriations, says that they shall not be paid "until a satisfactory abstract of title and certificate of search as to incumbrances shall be furnished showing the person demanding such damages or commutations to be legally entitled thereto which abstract and search shall be filed in the office of the comptroller" and finally section 88 of the Canal Law contains this provision: "When damages are awarded for the appropriation of any lands or waters to the use of a canal and it appears that there is any lien or incumbrance on the property so appropriated, the comptroller may deposit the amount awarded in any bank, in which moneys belonging to such fund may be deposited, to the account of such award, to be paid and distributed to the persons entitled to the same as ordered by the supreme court on application of any person." This is in accordance with the usual practice in condemnation proceedings. (*City of Geneva v. Henson*, 195 N. Y. 447; *Matter of William and Anthony Streets*, 19 Wend. 678.)

If the conclusion here urged is not correct and the Court of Claims can determine issues between citizens without their consent, this court can, without the consent of the parties, pass upon

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the validity of a marriage in determining a dower interest or the validity of a contract or lease in determining the interest of a purchaser or lessee or construe a will or other written instrument in determining the interest of claimants or upon numerous other difficult and complicated questions that may arise in connection with determining a "private claim against the state." The fact that such issues may arise in controversies with the State does not authorize the Court of Claims to exercise authority over them without the consent of the parties in the face of the judiciary article which creates special courts for the trial of these issues. Would any one contend that if, instead of creating the Court of Claims to pass upon claims against the State, the Legislature had created for the purposes of appropriation cases, a board or a single appraiser as it had the right to do, serious questions of law between parties presenting claims against the State could be adjudicated?

The claim should be dismissed and the claimant remanded to his remedy against the fund created by the agreement between the owner and the State, which takes the place of the property appropriated and out of which any liens and incumbrances must be paid (*Matter of W. S. & B. R. R. Co.*, 34 Hun 632; *Matter of City of New York*, 129 A. D. 700); unless the owner is brought into court as a party to this proceeding and consents to have the interests of the claimant determined by this court. (*Anderson v. Reilly*, 66 N. Y. 189.)

SWIFT and MURRAY, JJ., concur.

MARY W. BURCHARD v. THE STATE OF NEW YORK.

Claim No. 8249.

Claim for Damages for Appropriation of Land.

Where a claim is filed for damages for the appropriation of land, the Court of Claims cannot disregard the evidence and make an award less than the amount testified to by the lowest witness called as to value of the property, and claimant is also entitled to recover the amount paid for a search showing title to the land appropriated.

(Decided March 15, 1910.)

Burchard v. State of New York.

N. R. Holmes, for claimant.

The Attorney-General, for the State.

SWIFT, P. J. This claim was filed for damages for the appropriation of about $9\frac{1}{2}$ acres of land, part of a farm of 48 acres situate about $2\frac{1}{2}$ miles from the city of Rochester, N. Y.

The claim is for four thousand five hundred dollars (\$4,500).

Upon the trial of the action May 27, 1907, an award was made in favor of the claimant for \$766, and interest from the date of the appropriation.

The claimant appealed to the Appellate Division in the Third Department upon the ground that the award was insufficient under the evidence in the case.

The Appellate Division reversed the award upon the ground that the award was less than the amount testified to by the lowest witness called as to value of property, and that the Court of Claims could not disregard this evidence. 128 App. Div. 750; 113 N. Y. Supp. 233.

The Appellate Division also held that the claimant was entitled to recover the amount paid for a search showing title to the land appropriated which the Court of Claims had not awarded.

The State appealed to the Court of Appeals, which dismissed the appeal and granted a new trial. (195 N. Y. 577). The case was retried by stipulating to submit the case to the Court of Claims upon the testimony contained in the printed record.

The witnesses differed widely as to the amount of damage sustained by claimant by the appropriation of the nine and one-half ($9\frac{1}{2}$) acres of land, ranging from one thousand to two thousand seven hundred dollars (\$1,000 to \$2,700). The land taken was mostly pasture land, was filled with stumps, wet, marshy and only a small part of it had ever been cultivated. The court personally inspected the land before any award was made.

We respectfully follow the decision of the Appellate Division upon this trial. Mr. Truesdale, one of the witnesses, fixes the entire damage at \$1,000; and upon all of the evidence and a

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personal examination of the property, we think this amount is ample. We also, under the decision of the Appellate Division, allow to the claimant the sum of twenty-five dollars (\$25) for the search, making the award in favor of claimant, one thousand and twenty-five dollars (\$1,025), with interest on the sum of \$1,000 from the date of the appropriation.

RODENBECK, J., concurs.

EDWARD CARROLL, JR., NOEL H. SANBORN, and FRANCIS N. SANBORN, Claimants, v. THE STATE OF NEW YORK.*

Claim No. 9391.

Claim for Services as Stenographer in Litigation Against the State.

The State has placed limits upon the power of its officers to contract and incur indebtedness on its behalf.

1. Executive Law, § 62; State Finance Law, § 35; *Chase v. United States*, 44 Fed. R. 732; *affd.* 155 U. S. 489.

2. *Dillon on Municipal Corporations*, 4th ed., § 445; *McDonald v. Mayor of New York*, 68 N. Y. 27; *Throop on Public Officers*, § 535.

The State may ratify the unauthorized acts of its officers within the limits of constitutional restrictions. (*Dillon on Municipal Corporations*, 4th ed., § 463; *O'Hara v. State*, 112 N. Y. 146.)

Where the Attorney-General entered into a contract with a stenographer to take the minutes and furnish copy in a litigation against the State in excess of the appropriation made for his use for such purpose his unauthorized acts will be deemed to have been ratified by the State by the passage of statutes making appropriations to meet the expense of such stenographic hire. (L. 1907, ch. 578, p. 1321; L. 1907, ch. 9, § 1, p. 17.)

Where the Attorney-General makes a contract with a stenographer to take the evidence in a litigation against the State and these services continue after the close of his term, an appropriation to pay the services during his term is a ratification of the entire contract to the close of the litigation. (*Mayor, etc., of New York v. Davenport*, 92 N. Y. 604; *Tallman v. Kimball*, 74 Hun 279; *Mechem on Public Officers*, § 543; *Farmers' Loan & Trust Co. v. Walcorth*, 1 N. Y. 434; *Dillon on Municipal Corporations*, 4th ed., § 464; *Mechem on Public Officers*, § 549.)

(Decided May 10, 1910.)

E. S. Booth, for claimant.

The Attorney-General, for the State.

* Reported in 68 Misc. 41; 124 N. Y. Supp. 888.

Carroll, Jr., *et al.*, v. State of New York.

STATEMENT.

Litigation arose between the State and the Consolidated Gas Company of the City of New York concerning the constitutionality of the so-called eighty cent gas statute. The State, through the Attorney-General, made a party to the litigation, was called upon to defend the statute. In the defense of the suit, Attorney-General Mayer employed a special stenographer to take minutes and furnish copy. For this service the stenographer was paid down to the close of Attorney-General Mayer's term of office. At the beginning of the term of his successor, Attorney-General Jackson authorized the continuance of the service of the claimant and he continued to take the minutes and furnish copy to the close of the case, April 2, 1907. He has not been paid for his services from January 1, 1907 to April 2, 1907. This claim has been filed to recover the sum of \$8,921.03. Other facts appear in the opinion.

RODENBECK, J. This is a claim for \$8,921.03 against the State for services rendered by one of the claimants, Edward Carroll, Jr., as a stenographer in the suit brought in the United States Circuit Court for the Southern District of New York by the Consolidated Gas Company of New York against Julius M. Mayer, as Attorney-General, the State Commissioners of Gas and Electricity and the city of New York and the district attorney of the county of New York to test the constitutionality of the so-called eighty cent gas statute.

The claimant Carroll was selected as the stenographer in the litigation by the counsel for all of the parties and it was agreed that he should be paid at the rate of twenty-five cents a folio for the special master's copy and five cents a folio for each additional copy furnished to the parties.

An agreement was made by the Attorney-General and the counsel of the city of New York that the city should bear one-half of the expense of the master's copy and the State one-half, thereby reducing the charge to the State to twelve and one-half cents a folio instead of twenty-five cents.

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The testimony in the litigation was begun July 16, 1906 and was continued until April 2, 1907.

At the time of the commencement of the litigation Julius M. Mayer was Attorney-General of the State, but his term expired on January 1, 1907, before the termination of the litigation.

The claimant was employed by Attorney-General Mayer to take the testimony and to furnish certain material besides copies of the testimony and has been paid for his services down to the close of Mr. Mayer's term of office, to wit, to January 1, 1907.

At the beginning of the year 1907 a new Attorney-General, William S. Jackson, came into office, and an arrangement was made for the continuance of the claimant, Carroll, as the stenographer in the litigation under the same terms under which he had previously served the State.

For the services performed by the claimant, Carroll, after January 1, 1907, he has not been paid and this claim has been filed for such services, a part of which has been assigned to the other claimants above named.

While the State has placed limits upon the authority of its officers to contract and incur indebtedness on its behalf (*Executive Law*, § 62; *State Finance Law*, § 35; *Chase v. United States*, 44 Fed. Rep. 732; aff. 155 U. S. 489; *Dillon on Municipal Corporations*, 4th ed., § 445; *McDonald v. Mayor of N. Y.*, 68 N. Y. 29; *Throop on Public Officers*, § 55; *Mechem on Public Officers*, § 535), it may nevertheless ratify any of their acts whenever these acts are not void under the Constitution. (*Throop on Public Officers*, § 551; *Mechem on Public Officers*, § 535.) Dillon states the rule with reference to the ratification of the unauthorized acts of municipal officers as follows: "A municipal corporation may ratify the unauthorized acts and contracts of its agents or officers which are within the scope of the corporate powers but not otherwise." (*Dillon on Municipal Corporations*, 4th ed., § 463.) He further says that this ratification may be inferred from the acts of the corporation and that the same principles are applicable to such corporations as to individuals. (*Id.*) The same rule applies to the State except that the limitation upon the

Carroll, Jr., *et al.*, v. State of New York.

State to ratify unauthorized acts is the State Constitution. This rule of law is well stated by Chief Judge Ruger in *O'Hara v. State*, 112 N. Y. 146:

"It cannot be questioned, we think, but that when individuals voluntarily furnish property or render valuable services to the state, at the request of state officers for state purposes, but with the expectation of payment for the same, the legislature may ratify the acts of such officers, although previously unauthorized, and create a legal liability on the part of the state to pay for such property and services, enforceable in its tribunals."

Within the line of these authorities there was a ratification of the contract with the claimant Carroll. The original contract made with Attorney-General Mayer was ratified by the appropriation made by chapter 578 of the Laws of 1907, which specifically referred to the gas litigation and made an appropriation to meet the expenses thereof down to the end of Attorney-General Mayer's term of office.

The language of this appropriation is as follows:

"For the payment of services and disbursements authorized and expenses incurred by the attorney-general pursuant to law prior to January first, nineteen hundred seven, in the actions in the circuit court of the United States for the southern district of New York brought to restrain the officers charged by law with the execution of the provisions of chapter one hundred twenty-five, laws of nineteen hundred six, forty-seven thousand eight hundred fifty-four dollars and ninety-four cents (\$47,854.94) or so much thereof as may be necessary, to be audited by the comptroller upon the certificate of the attorney-general then in office." (L. 1907, ch. 578, p. 1321.)

This appropriation operated as a ratification of the entire contract (*Mayor, etc., of New York v. Davenport*, 92 N. Y. 604; *Mechem on Public Officers*, § 543; *Farmers' Loan and Trust Co. v. Walworth*, 1 N. Y. 434.) The claimant Carroll's contract was for the entire litigation and the ratification covered not only the services rendered during the term of Attorney-General Mayer, but also those rendered during the term of Attorney-General Jackson. (*Tallman v. Kimball*, 74 Hun, 279.) In addition to this ratification, however, Attorney-General Jackson reaffirmed the contract and the Legislature made appropriations sufficient to cover the expenses for the remainder of the litigation.

and State Finance Law and are to be construed in connection with those statutes and are sufficient to constitute a ratification of the acts of the Attorney-Generals where, as in this case, benefits have been
is, 4th ed., § 464;

the claim and an
on April 2, 1907

Kirby v. State of New York.

GUSTAVUS T. KIRBY v. THE STATE OF NEW YORK.*

Claim No. 9469.

Claim for Compensation for Services as Special Counsel Representing the State in the so-called "80-cent Gas Case" Litigation Before a Special Master Appointed by the United States Circuit Court.

The office of the Attorney-General is a continuing one. Courts will therefore respect the official legal acts of the office itself without regard to the individual who may for a time be the incumbent thereof.

It is the duty of the court in interpreting statutes to adopt such a construction as will harmonize existing laws, and in case of conflict to adopt such a construction as will be fair and equitable and not produce injustice to those who have acted in good faith under one of them, a construction which will produce the least public inconvenience and will not hamper the officials of the State in the proper discharge of their public duties when acting for the welfare of the State in the protection of its interests and for its benefit.

The Legislature in making appropriations for a current year for the Attorney-General's office could not foresee the exact amount required for all unanticipated emergencies and contingencies and provide specifically for the payment of each of them. It appropriates an amount for the contingent expenses of the office and leaves the Attorney-General, clothed with the authority of the Executive Law, to safeguard the interest of the State according to the necessities of each case as it arises. The Attorney-General being charged with a positive duty of defending actions brought against the State cannot justify a refusal to perform such duty on the ground that the Legislature has made no appropriation to meet an emergency which it could not foresee.

The State has undoubtedly placed limitation upon the power of its officers to incur indebtedness on its behalf. (*Executive Law*, § 62; *State Finance Law*, § 35; *Chase v. U. S.*, 44 Fed. 732, *affd.* 155 U. S. 489; *Dillon on Municipal Corp.*, 4th ed., § 445; *McDonald v. Mayor of N. Y.*, 68 N. Y. 27; *Throop on Public Officers*, § 551; *Mechem on Public Officers*, § 537.)

The State may ratify an alleged contract made by one of its State officers provided the contract is not void under the Constitution. (*Dillon on Municipal Corp.*, 4th ed., § 551; *Mechem on Public Officers*, §§ 535, 543; *Throop on Public Officers*, § 551; *O'Hara v. State*, 112 N. Y. 146; *Mayor of N. Y. v. Davenport*, 92 N. Y. 604; *Farmers' L. & T. Co. v. Walworth*, 11 N. Y. 434; *Tallman v. Kimball*, 74 Hun 279.)

Where the Attorney-General, although having no sum of money specially provided for the purpose, entered into a contract with an attorney to represent the State as special counsel and thereafter the Legislature passed a bill appropriating money to compensate the attorney,—*Held*, that this was a ratification of the contracts made by the Attorney-General acting for the State.

* Reported in 68 Misc. 626; 125 N. Y. Supp. 742.

Opinion by Murray, J.

(L. 1907, ch. 578, p. 1321; L. 1907, ch. 9, § 1, p. 17; *Dillon on Municipal Corp.*, 4th ed., § 464; *Mechem on Public Officers*, § 549; cases cited above.)

(Decided May 11, 1910.)

Kirby & Wood, for claimant.

The Attorney-General, for the State.

STATEMENT.

THE claimant was retained by Attorney-General Mayer to represent the State of New York as special counsel. The litigation being still unfinished at the expiration of term of office of Attorney-General Mayer, Attorney-General Jackson, the incoming official, continued the employment of the claimant.

The State, relying principally on section 35 of the State Finance Law, contended that Attorney-General Mayer, when he retained claimant, had no authority to make an agreement binding upon the State, in that at that time there was not a specific appropriation theretofore made, sufficient to pay the obligation incurred; that the Attorney-General then in office could not by his designation, employment and agreement, bind his successors in office; that the State is not liable for the services rendered and the work done on the ratification of this agreement by Attorney-General Jackson; nor is the continued retainer or employment of the claimant by Attorney-General Jackson binding on the State, because at the time of making such ratification and such re-employment the Attorney-General did not have funds in his hands sufficient or available to pay the amount that might be incurred.

MURRAY, J. This claim is filed by the above named claimant to recover for services rendered the State of New York as special counsel to the State, in what was commonly known as the Eighty-cent Gas Litigation, at an agreed and stipulated compensation of \$100 a day. And more particularly for twenty-nine days of such service, in the months of January and February, 1907, which were

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spent by the claimant as the special counsel of the State, and representing it, before Arthur H. Masten, Esq., as the special master who was appointed by the Circuit Court of the United States to hear and determine the issues therein which were referred to him.

In the summer of the year 1907 the Consolidated Gas Company brought a suit in the Circuit Court of the United States for the Southern District of New York against Julius M. Mayer, as the Attorney-General of the State of New York, the State Commission of Gas and Electricity, and others. This suit was brought for an injunction for the purpose of testing the constitutionality of the so-called Eighty Cent Gas Law, which had been previously passed by the State Legislature. The issues raised by the bill of complaint and the answer were referred by a circuit judge of said court to Arthur H. Masten, Esq., as a special master to hear and determine. The case was one of public interest and of great importance, in which a speedy determination was requested by the Circuit Court, and was also sought by the parties interested; therefore protracted and almost daily sessions were held by the said special master in order to facilitate and expedite the decision of the case.

The claimant was an electrical engineer as well as a counsellor at law, and possessed the technical knowledge, experience and ability which it was thought desirable and necessary one should have to represent the State in a litigation of this character, and after a conference with the Governor of the State, the then Attorney-General, Mr. Mayer, designated him and retained his services as special counsel for the State in such litigation at an agreed compensation of \$100 a day. The claimant thereafter rendered services to the State as special counsel in such litigation, and under said agreement to the first part of February, 1907.

On December 31, 1906, the term of office of Mr. Mayer as Attorney-General expired, and on January 1, 1907, he was succeeded in that office by Attorney-General Jackson.

There was appropriated by the Legislature by chapter 578 of the Laws of 1907, the sum of \$47,000 to pay and liquidate the expenses and indebtedness incurred by Attorney-General Mayer

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in connection with this litigation to the expiration of his term of office on December 31, 1906, and of this appropriation the claimant received a sum of money which he accepted in payment for such services as he had rendered to the State as such counsel to January 1, 1907.

When Mr. Jackson assumed the Attorney-Generalship January 1, 1907, the so-called Eighty Cent Gas case was still unfinished before the special master, and under the "pressure" referred to, the master and the counsel therein were holding almost daily sessions and endeavoring to reach a speedy determination of the case. About this time, or shortly thereafter, there was introduced in the Legislature a bill in behalf of the Attorney-General's office, and among other matters appropriating money for the payment of counsel designated or employed pursuant to the provisions of the Executive Law. The bill passed and became known as chapter 9 of the Laws of 1907.

After Mr. Jackson assumed the office of Attorney-General he, as such Attorney-General, retained and continued the employment of claimant as such special counsel for the State in said litigation until the conclusion of the taking of the testimony before the said special master, and it was agreed that the rate of compensation was to be in accordance with the agreement which the claimant had with Attorney-General Mayer. (Sten. Min., 35, 37-39.) The claimant under such retainer and agreement performed the twenty-nine days' service in the months of January and February, 1907, in attendance upon such special master in said litigation on behalf of the State as its special counsel, as is set forth in the claim in this proceeding.

About the time of the conclusion of these services the claimant rendered a bill, or requested payment of them from the Attorney-General. The services were not paid for on the ground, as the claimant understood, that the Attorney-General had no money available to pay for them. Subsequently to this there was introduced in the Legislature a bill appropriating the sum of \$2,900 to pay and compensate the claimant for these services. The bill passed both houses of the Legislature but failed to obtain the

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Governor's signature and become a law, and the claimant was relegated to his rights before this tribunal.

The State offered no evidence disputing the designation or employment of the claimant, nor as to the skill and ability with which he acted for the State, nor as to the worth and value of the services which he performed and rendered to the State.

The State urges upon the consideration of the court that the Attorney-General in office could not, in July, 1906, make an agreement binding upon the State, in that at that time there was not a specific appropriation theretofore made sufficient to pay the obligation incurred. That Mr. Mayer, the Attorney-General, then in office, could not by his designation, employment and agreement bind his successors in office. That the State is not liable for the services rendered and the work done on the ratification of this agreement by the successor in office, Attorney-General Jackson, nor is the continued retainer or employment of the claimant by Attorney-General Jackson binding on the State because at the time of making such ratification and such re-employment or designation, the Attorney-General did not have funds in his hands sufficient or available to pay the amount that might be incurred. The State relies principally on section 35 of the Finance Law which is as follows:

“Indebtedness not to be contracted without appropriation. A State officer, employee, board, department or commission shall not contract indebtedness on behalf of the State, nor assume to bind the State in an amount in excess of money appropriated or otherwise lawfully available.”

The evidence as to what money was “otherwise lawfully available” is somewhat indefinite and unsatisfactory. Attorney-General Mayer stated that he had funds in the summer of 1906, and chapter 9 of Laws of 1907 became a law February 9 of that year by which there was appropriated for Attorney-General Jackson the sum of \$15,000 to meet expenses similar to this.

In the discussion of the law applicable to this case, let us first ascertain what are the duties, powers and responsibilities of the Attorney-General as the legal representative of the State.

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Opinion by Murray, J.

The office of Attorney-General is a constitutional one, and as such the incumbent is elected by the people. *St. Const.*, art. 5, §§ 1 and 2.

The Constitution also provides:

“The powers and duties * * * of the several officers in this article mentioned (including the Attorney-General), shall be such as now are or hereafter may be prescribed by law.” (*St. Const.*, Art. 5, § 6.)

The Constitution having provided that the powers and duties of the Attorney-General shall be such as now are or hereafter may be prescribed by law, the inquiry naturally is, what powers are given, and what duties are prescribed by law in reference to the Attorney-General.

Section 62 of the Executive Law describing the general duties of the Attorney-General, provides the Attorney-General shall:

“1. Prosecute and defend all actions and proceedings in which the State is interested, * * * in order to protect the interest of the State”, and

“7. He may agree that a referee to be appointed in an action to which the State is a party, shall receive such compensation at such rate per day as the Court in the order of reference may specify.” (*Exec. Law*, § 62, Subdiv. 1 & 7.)

“The Governor or Attorney-General may designate and employ such additional attorneys or counsel as may be necessary to assist in the transaction of any of the legal business mentioned in Section sixty-two of this Chapter, and such attorneys or counsel shall be paid from the treasury a reasonable fee, upon the certificate of the Governor or Attorney-General, the amount to be audited and allowed by them or to be paid by the Attorney-General out of the costs recovered by him.” (*Exec. Law*, § 65.)

The Constitution and the Executive Law above quoted confers upon the Attorney-General the power, and imposes on him the duty and the obligation to defend actions and proceedings in which the State is interested, in order that the interest of the State may be protected. And when in a litigation like the Eighty Cent Gas case, involving an assault upon, and testing the constitutionality of a law passed by the Legislature, the State is sued and made a party to the action, it was the apparent duty of the Attorney-General to appear and defend the action in order to

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protect the interest of the State, and that duty, and the command of the law which imposed it upon him, carried with it the implied authority, right and means of making a suitable, proper and efficient defense. He was called upon to defend the State when sued, and to protect its interest according to the emergency occasioned by the litigation.

The rule is that when an act is to be done, the right to do everything necessary to complete the act is conferred by implication. (*Hull v. Supervisors*, 13 Abb. N. C. 427.)

The principle which is to control the interpretation of a statute is the intent of the Legislature which may be ascertained from the necessity of the enactment, as well as from other circumstances. (*Hieser v. Gilon*, 76 Hun 346; *Wood v. Lacombe*, 99 N. Y. 43; *Niagara Power Co.*, 111 A. D. 686; *Gress v. Hilliard*, 85 A. D. 507.)

Where a case is brought within the intent of a statute, it is within the statute, even though not definitely expressed, and the court has implied authority to carry out the intent of the Legislature. (*Topham v. Interurban Ry.*, 96 A. D. 323; *Hurst v. N. Y. City*, 55 A. D. 68; *Refining Co. v. Smith*, 52 A. D. 109.)

If I am right in my view that the Attorney-General has power to retain such additional counsel as may be necessary to assist in the defense of any suit brought against the State according to the emergency thereof, then the employment by the Attorney-General of the claimant herein was binding on the State.

The State cannot act itself, it must act through its proper officers, like a corporation which acts through its agents. (*Reese on Ultra Vires*, § 223; *Shearman & Redfield on Neg.*, 5th ed., vol. 1, § 249; 6 Hill 331.)

A State is liable for contracts made by its officers which are within their general constitutional or statutory powers. Express authority need not be conferred to bind the State, it may be implied from the power conferred to do any act reasonably necessary for the exercise of the power given. (*Am. & Eng. Ency. of Law*, 2d ed., vol. 26, pp. 481, 483, and cases cited.)

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In *People v. Stephens*, 71 N. Y. 527, 550, Judge Allen, speaking for the court, says:

“The State is not, in tutelage, as one incapable of acting *sui juris*, but has capacity to act in all matters by its representatives and agents and is bound by the acts and admissions of its duly appointed and recognized officers and representatives acting within the general scope of their constitutional powers, whether ministerial or executive. In the absence of fraud or collusion, the acts of public officers within the limits of the authority conferred on them, and in the performance of the duties assigned them in dealing with third persons are the acts of the State, and cannot be repudiated. Neither can the State allege infamy, incompetency or disability to avoid the effects of the official acts of its agents. This is of necessity, for, as the State can only act by its duly constituted authorities, there would be no safety in dealing with the State, if it were otherwise, and each succeeding officer could repudiate the acts, avoid the contracts, rescind settlements, and reclaim payments made by his predecessor. The Legislature may and does regulate the power of its officers, and the power can only be exercised within the prescribed limits, but the Legislature does not negotiate contracts. Its powers are legislative and every other power is delegated to other branches of the Government.”

(Also *Danolds v. State*, 89 N. Y. 36, 44; *Forest Com's'n v. Campbell*, 22 A. D. 170, 174; *Peo. ex rel. Grannis v. Roberts*, 45 A. D. 145, 152.)

In *People v. Lumber Co.*, 126 A. D. 616, 618, the court said:

“The office of the Attorney-General is an ancient one, and * * * from the earliest times, such officer, as the chief legal officer of the State, has performed certain duties and exercised certain authority which in terms may not definitely be prescribed by Statute.”

The office of the Attorney-General has long been accustomed to and has exercised the right to employ special counsel when they were needed, or it was deemed necessary in special cases.

It has been held that a long continued course of action by public officers under a statute has weight in construing it. (*Matter of Street Opening*, 12 Misc. 526; *Street Asylum*, 115 N. Y. 442; *Woolsey v. Funke*, 121 N. Y. 87, 92.)

It is the duty of the courts in determining statutes to adopt such a construction as will harmonize existing laws. In case of conflict to adopt such a construction as will be fair and equitable and not produce injustice to those who have acted in good faith under one of them. A construction which will produce the least

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public inconvenience and will not hamper the officials of the State in the proper discharge of their public duties when acting for the welfare of the State in the protection of its interest and for its benefit.

Let us now consider the provisions of section 35 of the State Finance Law.

It has been held that a construction of a statute is to be avoided which is liable to produce mischief or promote injustice. (*Hayden v. Pierce*, 114 N. Y. 512.)

In *Railway Co. v. Roach*, 80 N. Y. 339, the court says, page 344:

“The lawmakers cannot always foresee all the possible applications of the general language they use, and it frequently becomes the duty of the court in construing a Statute to limit their operation so that they shall not produce absurd, unjust or inconvenient results not contemplated or intended. A case may be within the letter of the law and yet not within the intent of the lawmakers and in such a case a limitation or exception must be implied.”

“A Statute framed in general terms, frequently embraces things which are not within the intent of the lawmakers, and sometimes things within such intent are not within the letter. Hence, in construing statutes it has been frequently held that a thing which is within the letter of the Statute is not within the Statute unless it be within the intent of the lawmakers.”

(See also *Delafield v. Brady*, 108 N. Y. 524, 529.)

In *Jacobson v. Mass.*, 197 U. S. 11, the Court says:

“All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice or absurd consequences. It will always be presumed that the Legislature intended exception to its language which would produce results of that character. The reason of the law in such cases should prevail over its letter.”

Attorney-General Cunneen, giving his opinion to the Board of Railroad Commissioners, advised the board that they had the power to determine the necessity of a change of a railroad crossing under section 63 of the Railroad Law, even though the money to pay for the State's portion of it was not at the time of such determination available for the purpose, saying:

“I think that the Legislature intended under section 65 of the railroad law, and did by the language employed in that section, make an exception if such an exception was needed to section 35 of the State Finance Law.”

(Report Att'y Gen'l for 1904, page 248; also opinion Att'y Gen'l Davies in Report Att'y Gen'l for 1900, page 183.)

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The provisions of the State Finance Law do not make the act of the officer who violates its provisions illegal and void. It may be that an officer who wilfully transgresses and seeks negligently or improvidently to bind the State is guilty of a misdemeanor. But it does not declare that the acts of the officer or the contracts of a State official, made in good faith for the State's welfare in the protection of its interest and for its benefit, are void.

The purpose of the State Finance Law was undoubtedly to prevent officials from doing acts, or heads of departments from entering into contracts, which the Legislature could readily foresee would become necessary and make provision for the payment thereof. That the Legislature could protect the interest of the State and prevent officials from improvidently and improperly entering into obligations for the payment of money without previous legislative sanction express or implied.

A Legislature in making appropriations for a current year for the Attorney-General's office could not foresee the exact amount required for all unanticipated emergencies and contingencies, and provide specifically for the payment of each of them. It appropriated an amount for the contingent expenses of the office, and left the Attorney-General clothed with the authority of the Executive Law to safeguard the interest of the State according to the necessities of each case as it arose. The Attorney-General, being charged with a positive duty of defending actions brought against the State, could not justify a refusal to perform such duty on the ground that the Legislature had made no appropriation to meet an emergency which it could not foresee. If such were the case the State might suffer great loss and the Attorney-General would be derelict and culpable. Neither could the Legislature properly provide for the defense of an action not brought while it was in session, requiring the employment of special and technical counsel.

Assuming the contention of the State is correct, that the provision of the Finance Law is applicable, and that at the time of claimant's employment the Attorney-General's office had no sum

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of money specially appropriated for the payment of the claimant's services.

The Legislature by chapter 578 of the Laws of 1907 appropriated money from which the claimant was paid for his services to January 1, 1907. And thereafter another bill was introduced and passed both houses, appropriating money to compensate him for the twenty-nine days of service which he rendered in the months of January and February, 1907.

Surely this was a ratification of the contracts made by the Attorney-Generals, acting for the State. It recognized the validity of the acts of the Attorney-Generals, the liability of the State for the same, and sought to pay and recompense the claimant.

In *O'Hara v. State*, 112 N. Y. 152, 153, the court says:

"The Legislature has undoubted power to authorize State officers and agents to contract debts under certain circumstances against the State, and as we have before said, it can legalize such as have been theretofore illegally contracted by a subsequent exercise of its legitimate legislative power. * * * It would certainly be strange and would subject the State to great loss and damage, if in case of emergency, and when legislative authority could not be previously obtained to authorize the same, that its servants should be powerless to obtain labor and materials necessary to save it from the destruction of its property, and be compelled to lose advances made in reliance upon the honor and integrity of the State, and believing that they would be subsequently reimbursed for expenditures made for its benefit. It cannot, we think, be said, that the constitutional provision was intended to disable the State from paying for property or *valuable services* received by it from individuals because they were furnished under stress of an imminent necessity without previous authority of law."

(Also *Sage v. Schuyler*, 79 N. Y. 184, 200-201.)

The suit of the Consolidated Gas Company was commenced in the summer of 1906. The State was one of the party defendants, and the constitutionality of its laws was sought to be tested. The action was one of great importance, public interest was aroused, and a speedy determination of the validity of the law was demanded. The special master was under instructions from the Circuit Court to hasten the conclusion of the case and was proceeding with extraordinary speed. The intricacies of the litigation required the employment of counsel of technical knowledge,

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experience and ability, who could give and devote his whole time to the suit. The State was sued. The Attorney-General was required by law to defend the action in the interest of the State. He was called upon at that time to act "under stress of an imminent necessity." The Legislature was not in session and an unforeseen and unprovided for emergency had occurred. He made a contract with the claimant in good faith, which has not been criticised as not being favorable and beneficial to the State. The claimant, under such agreement, rendered valuable services to the State, protected its interest, and the litigation ultimately resulted in the establishment of the validity of the law. The laborer is worthy of his hire, and the State having accepted and received the benefit of the claimant's skill and services should in fairness and equity pay their just worth.

I am therefore of the opinion that the provision of the Executive Law authorizing the Attorney-General in a proper case to employ counsel and bind the State to pay the reasonable value for services so rendered should not be over-ridden unless by clear and explicit implication of statute, and that it was not the intention of the Legislature that the provisions of the Finance Law quoted should be applicable to such a case as the one at bar.

The defense that Attorney-General Jackson could not ratify the agreement made by his predecessor with the claimant, or continue his employment as such special counsel, until a specific appropriation had been made to pay him, I do not think under the views I have above expressed is well founded.

When Attorney-General Jackson entered upon the duties of his office January 1, 1907, the Eighty Cent Gas case was then unfinished. It was still pending before the special master who was proceeding with the greatest celerity to its termination. The claimant was in the midst of the trial, solely representing the State, and was conversant with all the details and intricacies of the litigation which was nearing its end. The proceedings could not then have been suspended to procure other counsel and time allowed to familiarize himself with all the details of the case,

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nor could the State's interest be properly abandoned to await legislative appropriation. The same duty and obligation, which rested upon Attorney-General Mayer, fell upon Attorney-General Jackson, and he continued the retainer and employment of the claimant upon the same terms as to compensation as had been employed by Attorney-General Mayer.

The claimant under this new or ratified contract of employment with Attorney-General Jackson (if the same was needed) continued to render services as such special counsel for the State, and gave and performed the twenty-nine days of service in representing the State before the special master until the termination of the taking of the testimony before him.

A bill was introduced in the Legislature appropriating money for the Attorney-General to pay counsel retained under the Executive Law soon after Attorney-General Jackson assumed the duties of his office. This bill became a law February 9, 1907, and is known as chapter 9, Laws of 1907. The claimant not having been paid out of this appropriation another special bill was subsequently introduced appropriating specifically for his benefit the sum of \$2,900 to compensate him for these services. This bill passed both houses but failed to receive the Governor's signature and became a law for the reasons stated by the claimant in his evidence.

The office of the Attorney-General is a continuing one. Sovereignty never dies. The State always lives and the official who is the Attorney-General represents the State in legal proceedings no matter whom the individual incumbent for the time may be. It would make sad havoc in the legal business of the State and in judicial proceedings if each incumbent of the Attorney-General's office could reverse by a caprice or otherwise the legal acts of a predecessor. Courts will therefore respect the official legal acts of the office itself without regard to the individual who may, for a time, be the incumbent thereof.

In *Lardner v. Carson*, 78 Hun 544, the court at Special Term struck from the calendar a case which was noticed for trial by a

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succeeding Attorney-General who had not been substituted for his predecessor by whom the action had been commenced. The court at General Term in reversing the order say:

“The duty here prescribed is an official one, and pertains to the office of the Attorney-General and not to the person who at any one time chances to be the incumbent of the office, a duty which goes with the office and devolves in turn upon each incumbent as he succeeds thereto. The officer of the State who noticed this cause was to all intents and purposes the same officer who originally brought the action; namely the Attorney-General of the State, upon whom is charged the duty of bringing and maintaining this action.

“It is contrary to the theory of the action and to the spirit of the Statute that each successive incumbent of the office of Attorney-General should require to be individually substituted for his predecessor by an order of the Court before he can proceed with the prosecution of those actions in behalf of the people which were pending when he succeeded to the office.”

This court has jurisdiction of the claim. The Attorney-General lawfully made and entered into an agreement with the claimant for the performance of work, labor and services at a stipulated price. It is therefore an action on an express contract. It was submitted to the Attorney-General for his audit and the audit was refused on the ground that at that time there was not sufficient funds in the Attorney-General's hands to pay the same. The claim is therefore within the provisions of Section 264 of the Code of Civil Procedure as amended by the Laws of 1908, which provides:

“But the Court has no jurisdiction of a claim submitted by law to any other tribunal or officer for audit or determination except where the claim is founded upon express contract and such claim, or some part thereof, has been rejected by such tribunal or officer,”

In accordance with the views above expressed, I am of the opinion that the claimant is entitled to recover and should be awarded the sum of \$2,900 and judgment for that amount is directed to be entered in favor of the claimant herein and against the State.

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HENRY J. PIERCE v. THE STATE OF NEW YORK.

ELIZA P. HAZZARD v. THE STATE OF NEW YORK.

GEORGE ROSSOW and CHARLES ROSSOW v. THE STATE OF NEW YORK.

Claims No. 9213, 9534, 9451.

Claims for Appropriations of Land along Tonawanda Creek.

The statutes of the State down to the enactment of the Canal Law of 1894, (L. 1894, ch. 338) did not require the making and filing of a map or the serving of a notice of appropriation upon the property owner as a part of the act of appropriation, but merely provided that the State should take possession of the land permanently appropriated, the damages, if any, being obtained through the canal appraisers.

By the construction of a dam, raising the water of Tonawanda creek, and flooding the property in dispute, and by the construction of an embankment and ditch, thus entering upon and taking possession not only of the land covered by the embankment and ditch, but of the disputed land intervening between the embankment and Tonawanda creek, the State complied with the statutes relating to permanent appropriations.

The Holmes-Hutchinson maps of 1834, the Improvement Map of 1838, and the Evershed Maps of 1875, were made pursuant to statute and are competent evidence to prove the State's title to land along Tonawanda creek.

(Decided June 13, 1910.)

Norton, Penney and Sears, for claimant *Henry J. Pierce*.

Henry W. Hill, for claimants *Eliza P. Hazzard*, *George Rossow*, and *Charles Rossow*.

The Attorney-General, for the State.

RODENBECK, J. These are all cases of permanent appropriations along Tonawanda creek.

In the Pierce claim No. 9213 the claimant owns a farm in the city of North Tonawanda, Niagara county, of about 39 acres. The State appropriated of this farm for the Barge canal 2.71 acres in two parcels, one of .45 acre appropriated November 25, 1907, and the other of 2.26 acres appropriated April 27, 1907. Between the appropriated land and Tonawanda creek is a strip of land of 7.62 acres, the title to which is claimed both by the State and the claimant.

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In the Hazzard claim No. 9534 the claimant is the owner of a farm of 10 acres in the city of North Tonawanda, Niagara county, of which 5 acres lie between Sweeney street and Tonawanda creek, of which 5 acres the State appropriated for the purposes of the Barge canal, October 27, 1907, .17 acre. There is in dispute in this claim .7 acre between the land appropriated and Tonawanda creek which is claimed both by the State and the claimant.

In the Rossow claim No. 9451, the claimants are the owners of a farm of 80 acres in the city of North Tonawanda, Niagara county, of which about 20 acres lie between Sweeney street and Tonawanda creek, of which 20 acres the State appropriated for the Barge canal May 9, 1907, .67 acre. Between the appropriated land and Tonawanda creek there is a strip of land of 2½ acres which is claimed both by the State and the claimant.

The statutes of the State down to the enactment of the Canal Law of 1894 (ch. 338) did not require the making and filing of a map or the serving of a notice of appropriation upon the property owner as a part of the act of appropriation but merely provided that the State should take possession of the land permanently appropriated, the damages if any being obtained through the canal appraisers (R. S. pt. 1, ch. 9, tit. 9, art. 2, §§ 16, 18; art. 3, § 48; *People v. Adirondack Ry. Co.*, 160 N. Y. 240; *Wheelock v. Young*, 4 Wend. 647; *Jerome v. Ross*, 7 Johns. Ch. 315; *Rogers v. Bradshaw*, 20 Johns. 735.)

The State in this instance complied with the statutes relating to permanent appropriations so far as the parcels in dispute are concerned, in the three claims above mentioned, by the construction of the dam below the premises raising the water of Tonawanda creek five feet and thus flooding the property in dispute in each claim and by the construction of the embankment and ditch thus entering upon and taking possession, within the language of the statute, not only of the land covered by the embankment and ditch but of the disputed land intervening between the embankment and Tonawanda creek. (R. S. pt. 1, ch. 9, tit. 9, art. 2, § 17; *Heacock & Berry v. State*, 105 N. Y. 246; *Stewart v. State*, 105 N. Y. 254; *Benedict v. State*, 120 N. Y. 228; *Marks v. State*, 97 N. Y.

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572; *People v. Hayden*, 6 Hill 359; *Rexford v. Knight*, 11 N. Y. 308.)

Tonawanda creek and 15 links of the land of claimants' predecessors were appropriated when the original canal was constructed and was confirmed by the Holmes-Hutchinson maps of the canal system of the State of 1834 but the permanent appropriation by entry and possession of the land in question was made pursuant to the improvement of 1838 under which the embankment and ditch were constructed, the extent of the entry of the State being defined by means of a green line upon the improvement map of 1838.

The entry and possession of the State upon the land in question and its appropriation pursuant to the statutes was further confirmed by the Evershed maps of 1875 upon which a blue line appears which includes the property in question and which blue line is identical in location with the green line which appears upon the map of 1838.

These maps were made pursuant to statute (R. S. pt. 1, ch. 9, tit. 9, art. 2, § 17; L. 1864, ch. 298, § 5; Assembly Documents 1867, No. 27; L. 1868, ch. 715, p. 1751; L. 1869, ch. 77, p. 2144; L. 1870, ch. 767, p. 1905; Assembly Documents 1869, No. 112; 1871, No. 3; 1872, No. 11; 1875, No. 80; 1876, No. 27) and were competent evidence of appropriations covering the land in question made by the State. (*Bogardus v. Trinity Church*, 4 Sand. 633; *Donohue v. Whitney*, 133 N. Y. 178; *Rexford v. Knight*, 11 N. Y. 308.)

The foregoing facts satisfy the requirements of the statutes and the decisions of the courts to constitute a valid appropriation of the land in dispute in the above claims and vest in the State a title in fee (*Marks v. State*, 97 N. Y. 572; *Rexford v. Knight*, 11 N. Y. 308; *Heacock & Barry v. State*, 105 N. Y. 246; *Stewart v. State*, 105 N. Y. 254; *Benedict v. State*, 120 N. Y. 228; *Yaw v. State*, 127 N. Y. 190.)

In the Pierce claim therefore the claimant is entitled to an award for the value of the 2.71 acres actually appropriated and to such damages as were occasioned by the appropriation to the bal-

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ance of his farm but not to any damages that may have been occasioned to the 7.62 acres of land the title to which is in the State.

In the Hazzard claim the claimant is entitled to an award for the .17 acre permanently appropriated by the State and for any damages occasioned to the balance of his farm but not to any damages to the .7 acre in dispute, title to which is in the State.

In the Rossow claim the claimants are entitled to an award for the value of the .67 acre permanently appropriated by the State and for the damages to the remainder of the farm occasioned by the appropriation but not to any damages for the 2½ acres in dispute, title to which is in the State.

In appraising the compensation to which the claimants were entitled the witnessess allowed a considerable amount for the damages occasioned to the balance of the property by the appropriation and in the awards made by the court a large part of the compensation consists of damages to the remainder of the property by the placing of spoil upon the appropriated land.

If the evidence presented in these claims and in the Potter, Miller and Humphrey claims is not sufficient to establish the title of the State to the land in question in these claims, the State must surrender much of its canal land for which compensation has been received either in money or benefits and for which no better proof of title exists than has been presented in these claims.

In each of the above claims the expense of procuring the abstracts of title should be allowed and interest from the dates of appropriation respectively.

Swift and Murray, JJ., concur.

ALICE FLANNIGAN v. THE STATE OF NEW YORK.

Claim No. 9306.

Measure of Damages for Land Appropriated.

Where part of a farm suitable for the raising of potatoes is appropriated by the State, and the estimates of damage of the claimant's witnesses seem to

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be largely based upon the productive capacity of the appropriated land, *Held*, that in this respect the testimony is not entirely reliable, for while the productive capacity may be considered, it is not a sole test of the value of the property, and also, that while the claimant may have made a high net profit per acre from the land appropriated, the same investment on other land might yield more than that amount and the personal element of labor and skill and the exigencies of the seasons make the net profit unreliable as a sole test of value.

(Decided June 29, 1910.)

E. C. Rodgers, for claimant.

The Attorney-General, for the State.

RODENBECK, J. The claimant is the owner of a farm in the town of Kingsbury, county of Washington, consisting of about 60 acres lying adjacent to and easterly of the Delaware & Hudson Railroad.

The westerly end of the farm which has been appropriated consists of deep muck soil suitable for raising potatoes. The westerly end not appropriated consisted of about 12 acres of slate loam land on a sort of knoll where the house and buildings stand and about 9 or 10 acres of muck land that was developed and about 10 acres of undeveloped muck land that was used as a pasture.

The farm has the usual farm buildings suitable for a farm of 60 acres and has no access to a public highway but was provided by deed with a private right of way to a public highway along the bank of the Champlain canal which lies a short distance westerly of the Delaware & Hudson Railroad.

The farm was quite largely used for raising potatoes which were shipped to New York city by means of boats on the Champlain canal.

The two parcels of land making up the westerly end of the farm were appropriated by the State, one consisting of 24.93 acres in February, 1908, and the other of 4.78 acres on August 31, 1908, making a total appropriation of 29.71 acres, all of which was muck land suitable for raising potatoes.

The appropriation cuts off the balance of the farm consisting

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of about 30 acres from access to the public highway by taking away the private right of way to the public highway along the towpath above mentioned, leaving the balance of the farm isolated and making it necessary to procure a right of way over private property but leaving the farm adjacent to the proposed enlarged Champlain canal.

The claimant gives the amount of her claim in her notice of claim at \$41,860 and her damages by witnesses called on her behalf range from \$14,000 to \$30,000 while the State's witnesses place the damages at \$5,000.

The witnesses called by the claimant place the value of the entire farm at \$500 or more an acre and estimate the value of the potato land appropriated by the State as high as \$1,000 an acre while the witnesses for the State place the value of the potato land at \$150 an acre.

This is a very wide divergence in the estimates of value and gives the court very little guidance especially since there have been few sales of land similar to claimant's in this vicinity.

The estimates of the claimant's witnesses seem to be largely based upon the productive capacity of the appropriated land and in this respect the testimony is not entirely reliable for while the productive capacity may be considered, it is not a sole test of the value of the property. While the claimant may have made a high net profit per acre from the land appropriated the same investment on other land might yield more than that amount and the personal element of labor and skill and the exigencies of the seasons make the net profit unreliable as a sole test of value. On the other hand the State's witnesses have not sufficiently taken into account the productive character of the land and have estimated it too much like an ordinary upland farm in that vicinity.

The court has viewed the property and has had occasion to appraise land similar to that of the claimant.

I think the claimant is entitled to an award of \$6,684.75 with interest on \$5,609.25 from February 1, 1908, and on \$1,075.50 from Aug. 31, 1908, and \$22.14, the expense of the abstract of title.

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JOHN R. MILLER, MARION MILLER, DUGALD C. MCINTYRE and
MARGARET MCINTYRE, v. THE STATE OF NEW YORK.*

Claim No. 9541.

Prior to the enactment of the Canal Law (L. 1894, ch. 338) there was no provision of law requiring any map to be made or filed or served upon the property owner of lands to be appropriated by the State. (L. 1816, ch. 237; L. 1817, ch. 262; R. S. Pt. 1, ch. 9, tit. 9, art. 2; L. 1894, ch. 338.)

Prior to the Canal Law (L. 1894, ch. 338) the permanent appropriation of land was complete when the State took possession of the same and if no claim was made within a year after such appropriation the owner lost his interest in the property and the State acquired a title in fee. (*Marks v. State*, 97 N. Y. 572; *Rexford v. Knight*, 11 N. Y. 308.)

Where the title to canal land appropriated prior to the enactment of the Canal Law of 1894 is in dispute, the State may prove its title by showing the actual construction of its canal and works thereon, the Holmes-Hutchinson maps of 1834, the Evershed maps of 1875, official records, maps and documents and any other competent evidence which bears upon the title. *Bogardus v. Trinity Church*, 4 Sandf. 333; *Rexford v. Knight*, 11 N. Y. 308; *Donohue v. Whitney*, 133 N. Y. 178.)

The original Holmes-Hutchinson maps of 1834 or a duly certified copy of a portion thereof may be offered in evidence upon the subject of the ownership of canal land by the State and are presumptive evidence of the title of the State although copies thereof were not filed in the county clerk's office where the land is situate. (L. 1909, ch. 13, § 4.)

A map made over 30 years ago for the construction of an improvement of the canal and the appropriation of land necessary therefor produced from a Division Engineer's office of the State may be introduced in evidence as an ancient document bearing upon the possession and title of the State to land included within territory proposed to be appropriated according to the map. (*Bogardus v. Trinity Church*, 4 Sandf. 333; *Donohue v. Whitney*, 103 N. Y. 178.)

The so-called Evershed maps of 1875 being over 30 years of age, having been shown to be prepared pursuant to legislative authority and having been produced from the State Engineer's office at Albany, the legal custodian of the maps, or a certified copy of a part of such maps, are not presumptive evidence of the title to canal land because not properly authenticated as required by statute, but are competent evidence of the title of the State to the land included within the blue line shown upon the maps. (*Bogardus v. Trinity Church*, 4 Sandf. 333; *Donohue v. Whitney*, 133 N. Y. 178.)

Where it appears from the evidence that Tonawanda creek was a part of the canal system of the State; that the dam was built near its outlet; that

* Reported in 68.Misc. 607; 125 N. Y. Supp. 148.

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it was made navigable; that the Holmes-Hutchinson maps of 1834 of the canal system of the State show the creek as a part of the canal system with a towing path on the southerly side of the creek; that between 1838 and 1842 the State constructed an embankment through the property on the north side of the creek for the purpose of obviating flooding upon which embankment the buildings of claimant were constructed; that the map under which the improvement was made shows a green line indicating the land to be appropriated, which green line included the land in dispute; that this map was over 30 years of age and was produced from the Division Engineer's office of the State; that pursuant to legislative authority maps were prepared of the canal system of the State known as the Evershed maps of 1875, which were filed in the State Engineer's office, a copy of a part of which was offered in evidence showing the land in dispute within the blue line; that an appraisement was made of a two-thirds interest in the land in question for damages arising from the improvement of 1838 and that no claim was filed for any appraisement for the damages from the appropriation of the other one-third interest; the State has acquired title in fee to the land in question. (R. S. Pt. 1, ch. 9, tit. 9, art. 2; *Marks v. State*, 97 N. Y. 572; *Rexford v. Knight*, 11 N. Y. 308; *Bogardus v. Trinity Church*, 4 Sandf. 333; *Donohue v. Whitney*, 133 N. Y. 178.)

(Decided June 29, 1910.)

The claimants claim to be the owners of land in the village of North Tonawanda situate on the south side of Sweeney street and on Tonawanda creek.

The State has formally appropriated all but a strip of this property on Sweeney street, of a depth of 9.43 feet.

Both the claimants and the State lay claim to the property appropriated.

Other facts sufficiently appear in the opinion.

N. R. Holmes, for claimant.

The Attorney-General, for the State.

RODENBECK, J. The claimants have been for many years the occupants of land in the city of North Tonawanda situated on the southeast corner of Sweeney and Main streets bounded on the south by Tonawanda creek which creek it is claimed by the State forms a part of the Erie canal system.

There are upon the property a wagon shop, finishing shop, blacksmith shop, coal shed, lumber storehouse, small storehouse

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and a wharf, some of which extend over the water of the creek in some cases thirty feet (Sten. Min. p. 23) and are supported by piles driven into the bottom of the creek.

Most of the buildings on the property at the time of the appropriation had been in existence in their original condition and as improved for upwards of forty years and had been supported by the piles maintained for an equal length of time.

The premises of which the claimants are in possession have a length on the north line according to the present appropriation of 141.07 feet, on the south line of 142.08 feet, on the east line of 56.57 feet and on the west line of 40 feet and when the improvements for the Barge canal began in this territory the State claimed to own all of this property except a narrow strip on the north having a width on the east end of 19.62 feet and on the west end of 9.43 feet.

In order to determine the dispute as to the title to the larger portion of the property a formal appropriation was made by the State October 27, 1908, which embraced all but the narrow strip specified and on November 5, 1908, the claimants were notified to remove their buildings from the property and upon their refusal and on December 19, 1908, the buildings were torn down or removed by the State or its contractors with the exception of two small buildings which claimants removed and for which no claim is made.

This case and the other cases on Tonawanda creek tried about the same time as this case are of great importance not only to the claimants because of the value of the land in question and the buildings thereon but because they involve the method for proving the so-called blue line defining the land owned by the State and the title of the State to its canal land not only here but throughout the State.

When the State projected its canal system it was thought that so important a public improvement would appeal to the generosity and patriotism of the people of the State sufficiently so that the necessary appropriations of land would be secured very largely by "cessions, grants or donations" (L. 1816, ch. 237 § 2), but

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this expectation was not fully realized and the following year the Legislature provided for the acquirement by eminent domain of the land and water necessary for the canal. (L. 1817, ch. 262, § 3.)

This statute and the later provisions of the Revised Statutes (R. S. pt. 1, ch. 9, tit. 9, art. 2) and indeed all of the general statutes providing for the permanent appropriation of land for canal purposes down to the enactment of the "Canal Law" (L. 1894, ch. 338) provided merely for the entry upon the land necessary and the taking of possession thereof. There was no provision in any of the statutes prior to 1894 requiring any stakes to be set or any map to be filed as a prerequisite to the permanent appropriation of land by the State for the canal. (*People v. Adirondack Ry. Co.*, 160 N. Y. 240; *Wheelock v. Young*, 4 Wend. 647; *Jerome v. Ross*, 7 Johns. Ch. 315; *Rogers v. Bradshaw*, 20 Johns. 735.) The nearest approach to such a provision is found in the Laws of 1840, chapter 352, which related to tracts or parcels of land divided by the construction of the canal, the provisions of which with some additional features were extended to all permanent appropriations by the Canal Law of 1894.

The statutes did not leave the owner of the property without a remedy where his land had been appropriated to the use of the public. His property could not be taken without compensation and so the early statutes provided that there should be an appraisal of the damages occasioned by the acts of the canal commissioners (L. 1817, ch. 262, § 3; R. S., pt. 1, ch. 9, tit. 9, art. 3) and the statutes further provided that if the person whose land was taken did not make a claim for damages "within one year after such premises shall have been taken for the use of the state" he should be deemed to have "surrendered to the state his interest in the premises so appropriated," (R. S. pt. 1, ch. 9, tit. 9, art. 3, § 48.) This short statute of limitations was continued by subsequent statutes (L. 1866, ch. 836, § 5; L. 1870, ch. 321) and remained in force down to the passage of the "Canal Law" (L. 1894, ch. 338) and operated to give the State a good title to land and water upon which it had entered and of which it had taken

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possession after the lapse of one year from such entry and possession. (*Heacock & Barry v. State*, 105 N. Y. 246; *Stewart v. State*, 105 N. Y. 254; *Benedict v. State*, 120 N. Y. 228; *Marks v. State*, 97 N. Y. 572; *People v. Hayden*, 6 Hill 359; *Rexford v. Knight*, 11 N. Y. 308.)

In the case of *People v. Adirondack Ry. Co.*, above cited, after referring to the various statutes for the construction of the original and enlarged canal relating to temporary and permanent appropriations, Judge Vann says:

"All the canals of the state were built under these acts, and much property of great value was appropriated solely under their provisions. For many years the powers thus conferred were in constant exercise, and although these statutes were often before the courts, not one was ever declared unconstitutional because of the summary method authorized in appropriating property. There was neither hearing nor notice, for the canal commissioners, or their agents, simply took possession of and used 'all lands, streams and waters' which they deemed necessary for the use of the canals. This completed the condemnation, except that the damages when ascertained were paid by the State. Under some of the acts, if the property owners filed their claims within one year after the appropriation, they received the amount awarded by the appraisers, and unless they filed their claims within the period mentioned they received nothing in the absence of special legislation." (p. 241.)

Under this condition of the statutes it is only necessary for the State to show, where no appraisal was made of the damages, that it actually took possession of the land in question for the purposes of the canal, and that the statute of limitations has run against the claim, and the possession may be established by the testimony of living witnesses and by other competent proof, such as the location of stakes, maps, records and other documentary evidence.

There is no doubt that the State appropriated the whole of Tonawanda creek for the purposes of the Erie canal and to that end it constructed a dam some five hundred feet below the premises of the claimants which raised the water in the creek about five feet. It also constructed a towing path on the southerly side of the creek and appropriated a strip on the berm bank side of fifteen links. These constructions and this appropriation were made

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some time prior to 1826, and are not only shown on the ground to some extent, but upon the maps made pursuant to statutes.

One of these maps is known as the Holmes-Hutchinson maps of 1834. They consist of a series of maps bound in book form comprising complete maps of the canal system of the State. They were made pursuant to a provision of the Revised Statutes of 1829, which authorized manuscript maps to be made of the canals of the State showing the canal land owned by the State. These maps were required to be certified and filed in the Comptroller's office and certified copies were authorized to be filed as directed by the canal board in the clerk's offices of the various counties where the land was situated. In this instance there was no filing of the appropriate map in the clerk's office of Niagara county, but the map filed in the State Comptroller's office, approved and certified as required, shows that the whole of Tonawanda creek was appropriated as a part of the canal, that a towing path was provided on the south side of the creek and that fifteen links were appropriated on the north side. This appropriation of fifteen links on the north side does not appear from the lines drawn upon the map itself but by virtue of language in the explanatory note which forms a part of the maps. This provision reads as follows: "Where any stream or pond is on the same level with the waters of the creek and the navigation is conducted in such stream or pond, the stream or pond is included in the canal to the high water mark of the stream with a berm bank on each side of fifteen links where no towing path is designated on the map." As I interpret this language it means that where no towing path is designated on the map an appropriation of at least fifteen links was made so that in the case of the claimants' property by virtue of the Holmes-Hutchinson maps there was an appropriation of fifteen links on the north or berm bank of Tonawanda creek, the waters of which, by virtue of the construction of the dam, were on a level with the waters of the Erie canal and were navigated as a canal.

Claimants are presumed to have known of the filing of the Holmes-Hutchinson maps in the State Comptroller's office, since

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they were made pursuant to a public statute of which they had notice. The fact that a copy of the Holmes-Hutchinson maps was not filed in the Niagara county clerk's office has no significance. The provision requiring manuscript maps to be made first appeared in the Revised Statutes (R. S., pt. 1, ch. 9, tit. 8, art. 1, §§ 4, 5, 6, 7). It was not provided that copies of such manuscript maps should be filed in the clerk's office of the counties where the property was situated but that "such part thereof as the canal board shall direct" should be "transmitted by the comptroller to every county intersected by the canal to which the maps shall relate" (§ 6). This discretion in the canal board to direct the filing in the various clerk's offices of the maps relating to the canal land in each county remained substantially the same until the enactment of the Canal Law in 1894 (ch. 338, § 5), when the language seems to have been changed to require copies of the appropriate maps to be filed in the county clerk's offices, but the omission to file such copies in this instance did not destroy the presumption that the claimants and their predecessors in title knew of the statute requiring the maps to be made and filed in the State Comptroller's office.

The appropriation for the original canal, however, was not sufficient to include all of the property in dispute in this claim and recourse must be had to other evidence to show that the State made a further appropriation. This evidence is found in connection with the improvement constructed by the State to obviate overflows of land on the north and south side of Tonawanda creek, due to the raising of the level of the water of the creek by reason of the construction of the dam. Soon after the water of the creek had been raised complaints were made by property owners, and in 1837 by chapter 395, the canal commissioners were directed to cause a survey and examination to be made of the lands adjoining Tonawanda creek "which are flowed by water in consequence of the State dam across the mouth of the creek." In the following year a report was made by one of the State engineers to the canal commissioners recommending certain plans, in the course of which he says: "In constructing the Erie canal Tonawanda creek

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was rendered navigable and constituted a part of it by the erection of a dam near its mouth (called the State dam) and by forming a towing path along its south bank" (Assembly Documents, 1838, No. 124). The work of constructing the embankment and ditch was authorized by chapter 347 of the Laws of 1838. This statute also provided that the commissioners might make such embankments and ditches as "will most effectually drain or prevent from inundation the lands now overflowed or otherwise damaged by the waters of the aforesaid creek." Progress upon the work was reported by the canal commissioners from time to time (Assembly Documents, 1839, No. 86; 1840, No. 60; 1841, No. 72), and the work was reported as having been completed in 1842 (Assembly Documents, 1842, vol. 2, No. 24).

In connection with this improvement it appears satisfactorily from the evidence that a map was made pursuant to statute (R. S., pt. 1, tit. 9, ch. 9, art. 2, § 17), showing by the use of a blue line the land overflowed, and by the use of a green line the land necessary to be appropriated or theretofore appropriated by the State. This map is referred to as the Improvement Map of 1838, and is entitled "Map of the overflowed lands and lands appropriated for the improvement of Tonawanda creek and Ellicott creek." It was found in the division engineer's office at Rochester, which division embraced Tonawanda creek. The map was on file in the office and had been there as shown by the testimony of the members of the office force for more than twenty years. The map was used in constructing the improvement and in making the necessary appropriations, and was shown to be correct. This map was identified as the map used in connection with the improvement by two awards introduced in evidence which recite the exact number of acres of land overflowed and appropriated designated upon the map. This map shows a green line north of Tonawanda creek at the location of the premises of the claimant which is the northerly boundary of the embankment (Sten. Min., p. 121), and which corresponds with the northerly line of the present appropriation, and if the green line upon this map shows the land appropriated by the State in connection with the improvement of 1838 (Sten.

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Min., p. 139) the land in question in this proceeding belongs to the State as a part of its canal system. The map of 1838 was properly admitted in evidence. (*Bogardus v. Trinity Church*, 4 Sandf. 633; *Donohue v. Whitney*, 133 N. Y. 178.)

That the green line upon the map of 1838 shows correctly land appropriated by the State is shown by the testimony of living witnesses who swore that an embankment was constructed along claimants' land from six to eighteen inches in height (Sten. Min., pp. 182, 196), and that buildings now on the property were built after the construction of the embankment and were built on the top thereof. (Sten. Min., p. 186.)

The embankment constructed under the statute of 1838 was quite an extensive undertaking. The embankment itself followed substantially the shore of Tonawanda creek, beginning at the dam below claimants' premises and extending eastwardly for about four miles. The ditch began at the Niagara river, 2,000 feet north of the dam, and some distance easterly of the claimants' land joined the embankment and ran parallel to it along the creek.

Further evidence of the actual appropriation of the land in dispute in connection with the improvement of 1838 is found in an award made February 13, 1843, by the canal appraisers to the then owners of the property of a two-thirds interest in a "strip of land from lots 81 and 82 taken for an embankment along the north shore of Tonawanda creek in length 66 chains and 21 feet wide which made two acres of land." (Sten. Min., pp. 96, 139.) The other one-third interest lapsed and became vested in the State by virtue of the one year statute of limitations. (R. S., pt. 1, ch. 9, tit. 9, art. 3, § 48; L. 1866, ch. 836, § 5; L. 1870, ch. 321; *Marks v. State*, 97 N. Y. 572; *Rexford v. Knight*, 11 N. Y. 308; *Heacock & Barry v. State*, 105 N. Y. 246; *Stewart v. State*, 105 N. Y. 254; *Benedict v. State*, 120 N. Y. 228; *People v. Hayden*, 6 Hill 359.) The width of this appropriated strip corresponds with the land appropriated in this proceeding, the proposed blue line in this proceeding being identical in location with the green line on the improvement map of 1838. (Sten. Min., p. 139.)

The conclusion arrived at as to the appropriation made under

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the improvement map of 1838 is borne out by the subsequent maps of the canal system of the State made for the western division by Evershed, known as the Evershed maps of 1875. These maps were made pursuant to appropriations of the Legislature from year to year and were intended to show the canal land owned by the State at that time. (L. 1864, ch. 298, § 5; Assembly Documents, 1867, No. 27; L. 1868, ch. 715, p. 175; L. 1869, ch. 77, p. 2144; L. 1870, ch. 767, p. 1905; Assembly Documents, 1869, No. 112; 1871, No. 3; 1872, No. 11; 1875, No. 81; 1876, No. 27.) They appear not to have been approved and certified as required by the statutes to make them presumptive evidence of title, but they are on file in the State Engineer and Surveyor's office and are proof so far as they go bearing upon the State's title to its canal land. (*Bogardus v. Trinity Church*, 4 Sand. 633; *Donohue v. Whitney*, 133 N. Y. 178.) Evershed, the engineer who prepared these maps, was at one time the division engineer of this portion of the State and must have been familiar with the situation at Tonawanda creek. In this instance these maps show a blue line along the north shore of Tonawanda creek corresponding with the green line on the map of 1838, and bearing out the contention that by the improvement of 1838 the construction of the embankment and the award made to the then owners of the property, the State acquired a title to the strip of land along the north shore which embraced all of the land sought to be appropriated in this proceeding.

Claimants' predecessors and the claimants themselves have acknowledged certain rights of the State to the land in question. In the deeds to claimants' predecessors there are reservations of the "rights of the state of New York in the waters and shore or dyke of Tonawanda creek." This reservation occurs in various deeds (Sten. Min., pp. 4, 7, 9, 97, 98) and is contained in the mortgage made by claimants to the Western Savings and Loan Association dated May 25, 1896, "excepting and reserving the rights of the state of New York in the waters and shore or dyke of Tonawanda creek." When asked upon the trial with reference to the reservation in their deed one of the claimants said: "We

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knew it but we figured it out that it would not amount to anything." (Sten. Min., pp. 83-84.)

The appropriation by the State in this proceeding is not a concession on the part of the State that the claimants are the owners of the land in dispute since the appropriation appears upon its face to have been made for the purpose of securing an adjudication of the question in this court; nor could the officers, authorized to make the appropriation by an act of appropriation in effect, surrender the title of the State to its canal land. The use of the creek by the owners of the adjacent shore for purposes of storage of logs or the placing of piles in the bed of the creek or the construction of buildings upon the canal land would not ripen into a title, since the statute would not begin to run against land used for or in connection with the operation of the canals of the State. (*Genesee Valley R. R. Co. v. Slaight*, 49 Hun 35.) The State being the owner of the land in dispute it was the duty of the claimants, upon receiving notice, to remove the buildings upon the property and their failure to do so deprived them of any remedy in this appropriation proceeding for their value.

The title of the State to much of its canal land and water depends upon just such evidence as has been produced in this claim, and if it is not to be given its full legal force, the State will lose property of great value to which it is equitably and legally entitled. The State comes into this court in the same attitude as any other suitor to be judged by the same principles of law that control in the settlement of disputes between individuals and in its controversies with its citizens there should be no deviation from legal principles one way or the other because of its sovereignty. In the present case were the contest one between individuals, considering the statutes and decisions applicable, of which the claimants are presumed to have had knowledge, it would seem to be established by a preponderance of evidence that the claimants have no legal title to the land so long profitably occupied by them. The study of the law reveals few general principles which are not subject to modifications or exceptions to meet the facts in individual cases in the interest of justice, but the award made to

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claimants' predecessors in title and the notice to claimants in prior conveyances of the rights of the State, which award and conveyances are on record in the clerk's office where the property is situated, would seem to make the case one where the legal principles applicable to the facts should not be strained, modified or distinguished from their usual force and effect in order to prevent a financial loss to claimants. The arm of the State is strong and should not be used in any case to accomplish a result unjustly harmful to any individual, but on the other hand the law should not be bent or warped to prevent a loss to citizens where such a course is not justified by a fair and impartial application of legal principles which should apply to all suitors alike, citizens and sovereign.

It appears, therefore, that the State in connection with the construction of the original canal in 1826 and the improvement of 1838 appropriated the land in question, and claimants are not entitled to recover.*

SWIFT and MURRAY, JJ., concur.

JAMES A. RILEY and NETTIE N. RILEY v. THE STATE OF NEW YORK.

Claim No. 9491.

ELIZABETH OSLEY v. THE STATE OF NEW YORK.

Claim No. 9684.

Claim for Damages by the Lessee and Owner of Land Permanently Appropriated by the State.

Where the owner of property and his tenant's assignee appeared in court and consented that their respective claims against the State and each other be determined, *Held*, that the owner was entitled to the value of the premises less the value of the lease, and the lessee's assignee was entitled to the value of the leasehold, which, as no witnesses were produced by the State, was

* Affirmed in 164 App. Div. 552; 149 N. Y. Supp. 788.

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estimated to be the difference between the rental value, as testified by the claimants' witnesses, for the unexpired term over and above the rent reserved, deducting the water tax which the lessee was obliged to pay.

(Decided July 12, 1910.)

Hugo Hirsh, for claimants.

The Attorney-General, for the State.

RODENBECK, J. This is a claim where the owner and his tenant's assignee appeared in court and consented that their respective claims as against the State and each other might be determined.

The property appropriated consisted of a lot and building situate in the city of Little Falls, county of Herkimer. The area of the land taken is .043 of an acre. The building was used as a store over which there were dwellings.

The claimant testified that he paid \$800 for the property when he purchased it and had expended \$2,000, making an expenditure of \$2,800. There was also a shed in the rear of the property. The witnesses for the State placed the property as low as \$2,200, but this estimate hardly represents the fair market value of the premises. It appeared that the property was rented for \$420 a year which at 10 per cent, which is the amount which is usually expected to be realized in gross from the rental of such premises, would give it a value of \$4,200.

The lease had three years, seven months and fourteen days to run at the time of the appropriation, and witnesses called to appraise the damages to the leasehold interest said that the property was worth \$50 a month instead of \$35, the terms of the lease.

The premises are worth \$3,300, and for this amount less the value of the lease the claimant, James H. Riley and Nettie N. Riley, his wife, should have an award.

A written lease was made for the property with Mary Haverickek, August 12, 1907, having as stated above, three years, seven months and fourteen days to run at the time of the appropriation. No witnesses were called by the State as to the value of the leasehold and the court is bound by the estimates of the witnesses called

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on behalf of the lessee's assignee, Elizabeth Osley. These witnesses placed this rental value at \$50 a month, which would make the value of the unexpired term over and above the rent reserved, \$667, from which however, should be deducted the water tax which the lessee was required to pay and which is estimated at \$25, making the value of the lease \$642. After the decision of the Appellate Division in the case of *Burchard v. State*, 128 A. D. 750, the court is not justified in going below the estimates placed upon the value of the leasehold by the witnesses, and therefore the sum of \$642 must be deducted from the amount awarded to the claimant, Riley.

An award should therefore be made to James H. Riley and Nettie N. Riley of \$2,658, and to Elizabeth Osley of \$642, with interest on each award from the date of appropriation.

MICHAEL GUERIN and ELIZA BRUEN *v.* THE STATE OF NEW YORK.

Claims Nos, 9178, 9380.

Claim for Permanent Appropriation of Land and Damages for Cutting Off Access to Public Highway.

Where the State appropriated land for the barge canal and thereby cut off the claimants' access to the public highway, *Held*, that the value of the land taken did not represent the damages which the claimants had sustained, for they were entitled to the damage that the remainder of the farm may have sustained as a result of the deprivation of the farm from access to the public highway.

The net income received is not the sole criterion for estimating the value of such property, although it may be taken into account.

(Decided July 12, 1910.)

Erskine C. Rogers, for claimant, Michael Guerin.

W. E. Young, for the claimant, Eliza Bruen.

The Attorney-General, for the State.

RODENBECK, J. These two claims were tried together, the claimants all having an interest in the parcels of land.

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Four parcels are involved and proceeding from south to north they are as follows: 46 acre parcel, of which .1 of an acre was appropriated; 3.16 acre parcel, all of which was appropriated; 3.44 acre parcel, all of which was appropriated; 9.71 acre parcel, all of which was appropriated.

The 46, 3.44 and 9.71 acre parcels have a frontage on Wood creek.

None of the parcels have a frontage on any public highway, but a right of way extends from the southerly parcel, the 46-acre piece northerly and thence westerly across the Delaware and Hudson R. R. tracks to a public highway, thus furnishing an outlet for all the parcels.

The 46-acre parcel, the most southerly of the four parcels of land, is known as the home farm, and upon it are situated the buildings, all of which were used in connection with the four parcels of land.

The .1 of an acre, appropriated from the home farm, was light muck soil, the 3.16 of an acre piece was light muck soil, the 3.44 acre piece and the 9.71 acre piece were heavy muck soil.

The remainder of the home farm, comprising about 46 acres, was partly loam and partly muck, and all was under cultivation, except 15 acres of pasture which had never been plowed.

All of the land appropriated was adapted to the raising of potatoes, but the .1 of an acre and the 3.16 acre parcels were especially adapted to that purpose.

All of the parties are adults, except six who are under twenty-one years of age, but they were represented by their guardian *ad litem*, and their attorney who consented to have the court fix their interests in the amount awarded for the appropriations.

There is the usual divergence in the estimates of the witnesses called on the part of the claimant and on behalf of the State. The .1 of an acre and the 3.16 acre parcels were estimated at a higher value than the two other parcels; witnesses for the claimants placing their value as high as \$600 an acre. The two other parcels were estimated considerably lower, being valued at from

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\$75 to \$300 an acre. The estimate of the damages for all of the appropriations range from \$1,747 to \$7,200.

The claimants' witnesses appraised the 9.71 and 3.44 acre parcels much less in value than the 3.16 and .1 acre parcels. Two of these witnesses placed the value of the former parcels at a little less than half of the value of the latter, while another placed it at one-third of the value.

These differences in valuations arose according as the witnesses gave prominence to one or the other elements which go to make up the value of such property. The witnesses for the claimant laid considerable stress upon the net income received which is not, however, the sole criterion for estimating the value of such property, although it may be taken into account. Other witnesses laid stress upon the sales of property similar to the claimants' in that vicinity of which there have been very few. The court has viewed the property and has appraised similar property in other proceedings.

The value of the land taken does not represent the damages which the claimants have sustained, for they are entitled to the damages that the remainder of the home farm may have sustained as a result of the appropriations. This damage is very substantial since the right of way, which was attached to the farm, has been cut off by the appropriation, although the farm will have a frontage on the improved Champlain canal. This deprivation of the farm from access to the public highway is a serious damage, and there should be added to the value of the land actually taken the sum of \$500.

The claimants are entitled to an award for the sum of \$2,877.25 with interest on \$522.50, \$711, \$430, and \$1,213.75 from the respective dates of appropriation of the .1, 3.16, 3.44 and 9.71 acre parcels besides \$25 for the expense of the abstract of title.

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LAVINIA C. PERKINS v. THE STATE OF NEW YORK.

Claims Nos. 8917, 9859.

Claims for Permanent Appropriation of Land.

Where the State, for Barge canal purposes, appropriates land constituting part of a farm, which appropriation divides the farm into two parts, one part of which is cut off from access to the highway and has no outlet, the claimant is entitled to the market value of the land taken, including whatever in the nature of realty was attached to the land, and is also entitled to a substantial allowance for damages to the property cut off from access to the highway.

The want of ingress and egress to land cut off by an appropriation is a serious element in determining the damages to which the claimant is entitled. In fixing this amount there should be taken into account the fact that a complete scheme for securing a private right of way is provided for in the statutes of the State pursuant to the Constitution (Constitution, art. 1, § 7; Highway Law, L. 1909, ch. 30, §§ 211-228), and that the expense of these proceedings would be quite large. In addition to this consideration, even with a private right of way the claimant will be seriously inconvenienced in operating his farm by being compelled to travel a considerable distance further to reach his buildings, and this item is also to be taken into account in estimating the damages.

(Decided July 25, 1910.)

William W. Armstrong, for claimant.

The Attorney-General, for the State.

RODENBECK, J. These claims are filed for the appropriation of 8.574 acres of land for the Barge canal.

The claimant is the owner of a farm of 59.144 acres in the town of Greece, county of Monroe.

The farm has a frontage on the north of a public highway and the old Erie canal, the highway crossing the canal at right angles about the center of the northerly boundary of the farm.

The canal crosses the farm some distance south of the northerly boundary of the farm dividing it into two parcels, the northerly parcel containing 17.62 acres and the southerly parcel 32.75 acres.

The northerly parcel has the same frontage upon the public

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highway as prior to the appropriation, but the southerly parcel has no outlet unless a private right of way, which exists along the southerly boundary of the farm adjoining it on the west, attaches to it.

Claim No. 8917 is for two appropriations aggregating 4.665 acres for which \$5,238 is claimed and was filed May 30, 1907.

Claim No. 9859 is for two appropriations aggregating 3.909 acres for which \$1,569.80 damages are claimed and was filed February 19, 1910.

The State made five separate appropriations in the following order and at the following times: 4.544 acres May 23, 1905; .121 acres November 1, 1905; .179 acres April 20, 1908; 3.111 acres September 10, 1908; .618 acres July 16, 1909; aggregating 8.57 acres in substantially a continuous strip through the farm from east to west, except as to two small parcels for the approach to a culvert.

The claimant is entitled to the market value of the land actually taken, including whatever in the nature of realty was attached to the land. This market value is fairly represented by the sum of \$100 per acre, including value of the peach trees standing thereon aggregating \$935.56. This was the valuation placed upon the land taken by one of the claimant's witnesses and has been accepted as the market value of the land appropriated.

There was upon the land appropriated certain crops for which some allowance should be made to the claimant. The evidence is rather indefinite as to the value of the crops in the condition in which they were, but we have concluded to allow the sum of \$50 for this item of damage.

The item for damages to crops on the land remaining, for which a claim of \$100 is made, is disallowed on the ground that the proofs do not show that the State was liable for this damage, but rather that the contractor, who was performing the work, transgressed his rights and is personally liable for a fair measure of these damages.

In addition to the items of damage above stated the claimant is entitled to a substantial allowance for damages to the balance of

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the farm, particularly to the 32.75 acres which lie south of the appropriated land, and which are cut off by the Barge canal from direct access to the portion of the farm remaining north of the canal. The claimant will have no access to the 32.75 acres by any public highway or any private right of way, unless the right of way mentioned in the deeds to the owners of the farm adjoining claimant's on the west would inure to the benefit of claimant's farm. An examination of these deeds, however, shows that the right of way does not attach to claimant's farm. The farms proceeding west from the north and south highway are the Payne farm, the claimant's farm and the Volkmar farm. The owners of the latter farm procured conveyances from claimant and her husband, and also from the former owner of the Payne farm of a right of way twenty-five feet in width along the southerly boundary of the claimant's farm and the Payne farm, giving them an outlet to the north and south highway. This right of way however does not inure to the benefit of the claimant. In such case the conveyance is of a right of way to the party of the second part of a strip of land for the purposes of a highway (quit-claim deed. Monroe County clerk's office, Liber 347, p. 107; Liber 380, p. 124). There is nothing in these deeds that grants to claimant any right of way over the farm adjoining her farm on the east and no such use has been shown to establish a prescriptive right to use the right of way opened up for the benefit of the farm lying west of her farm.

The want of ingress and egress to the 32.75 acres cut off by the appropriation is a serious element in determining the damages to which the claimant is entitled. In fixing this amount there should be taken into account the fact that a complete scheme for securing a private right of way is provided for in the statutes of the State pursuant to the Constitution. (State Constitution, art. 1, § 7; Highway Law, L. 1909, ch. 30, §§ 211-228). The expense of these proceedings would undoubtedly be quite large although the amount to be paid to the owner of the farm lying east of claimant's farm which is now subjected to a private right of way would probably not be very large. In addition to these considerations

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even with a private right of way the claimant will be seriously inconvenienced in operating the farm by being compelled to travel nearly one-third of a mile more to reach the buildings on the north end of the farm. Taking all matters into account the claimant is entitled to an allowance of \$54 an acre for the damages to the 32.75 acres cut off aggregating \$1,748.50.

The total compensation which should be allowed the claimant is \$2,733.06 with interest on \$1,449.64 from May 23, 1905, \$38.53 from November 1, 1905, \$57.11 from April 20, 1909, \$990.57 from Sept. 10, 1908, \$197.21 from July 16, 1909.

An award should be made in claim No. 8917 of \$1,488.17 with interest as aforesaid and in claim No. 9869 of \$1,244.89 with interest as aforesaid besides \$25, the expense of procuring the abstract of title.

MICHAEL ROURK and MARY F. ROURK v. THE STATE OF NEW YORK.

Claim No. 9376.

DAVID COLE, MOTT D. HITCHCOCK and DAN H. HITCHCOCK v.
THE STATE OF NEW YORK.

Claim No. 9412.

Measure of Damages for Claims of Landlord and Tenant tried together by
Consent.

Where the State appropriated land upon which were buildings, erected by tenants under a lease whereby they had the right to remove the buildings at the expiration of the lease, *Held*, That as between the owner and the tenant the buildings are to be regarded as personal property, but as between the State and the parties, they are to be treated as a part of the realty. (*Appointment of Park Commissioner*, 1 N. Y. Supp. 763; *Matter of City of New York*, 130 App. Div. 600.)

That the interest of the tenants is the market value of their lease, taking into account all of its items, including the buildings and any other property in the nature of realty they had attached to the soil. The award to the owner is for the value of the fee, which includes structures in the nature of

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realty attached to the soil. The compensation awarded for the fee must include an amount sufficient to compensate the tenants for the value of their lease including the buildings and other property in the nature of realty they had placed upon the land. The difference between the market value of the fee and the market value of the lease, taking all the elements into account will measure the compensation of the owner. The balance will be the compensation to which the tenants are entitled.

That the awards are made upon the express consent of the parties that the Court of Claims might determine the interests of each. (Code of Civ. Proc., § 281; *People ex rel. Platt v. Rice*, 144 N. Y. 249; *Matter of Porter*, 34 App. Div. 150; *Anderson v. Reilly*, 66 N. Y. 189.)

(Decided July 25, 1910.)

Hugh Hirsh, for claimants.

The Attorney-General, for the State.

RODENBECK, J. The claimant in No. 9376 was the owner of land in the town of Ridgeway, Orleans county which was appropriated by the State May 5, 1908 and the claimants in No. 9412, were tenants upon the property at the time of the appropriation having erected buildings thereon.

The parties in each claim appeared by the same attorney who expressly consented that the Court might determine the interests of each of his clients.

Under the lease made by the tenants they had a right to remove at the expiration of the lease the buildings that they had placed upon the land and while as between the owner and tenants these buildings are to be regarded as personal property as between the State and the parties they are to be treated as a part of the realty. (*Appointment of Park Comrs.*, 1 N. Y. Sup. 763; *Matter of City of N. Y.*, 130 A. D. 600.) They were attached to the land permanently as buildings usually are, and were a part of the realty at the time of the appropriation.

The interest of the tenants is the market value of their lease taking into account all of its items including the buildings and any other property in the nature of realty that they had attached to the soil. The award to the owner must be for the market value of the fee which includes structures in the nature of realty attached to the soil. The compensation awarded for the fee therefore will

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include an amount sufficient to compensate the tenants for the value of their lease including the buildings and other property in the nature of realty that they had placed upon the land. The difference between the market value of the fee and the market value of the lease taking all the elements into account will measure the compensation of the owner. The balance will be the compensation to which the tenants are entitled.

The awards made are upon the foregoing basis and in view of the express consent of the parties that this court might determine the interests of each. (Code of Civil Procedure, § 281; *People ex rel Platt v. Rice*, 144 N. Y. 249; *Matter of Porter* 34 A. D. 150; *Anderson v. Reilly* 66 N. Y. 189.)

HORACE N. COWLES v. THE STATE OF NEW YORK.

Claim No. 9530.

Claim for Damages Caused by Leakage, and for Damages Caused by Break in Canal Bank.

Where a contractor engaged in constructing a sewer is, by the authority of a city, in the streets embraced in his contract, for the purpose of building sewers, he has a right to expect that no one, including the State, shall trespass upon his rights without liability for the damages which may be occasioned him thereby.

Where the proof clearly shows that the State was negligent in the care of the canal bank and that water came through a break and actually invaded the trenches and works of the claimant, a contractor engaged in building a sewer, and caused him considerable damage, the claimant should be allowed the damages which he has proven were caused thereby.

The State could not negligently cause water to fill the trenches of the claimant and otherwise damage him without making compensation therefor, any more than it could negligently throw earth, rock or any other substance upon his works to his injury. (*Sipple v. State*, 99 N. Y. 284; *Reed v. State*, 108 N. Y. 407; *Brown v. State*, 11 C. C. 173; *Duffy v. State*, 11 C. C. 187.)

Where the State negligently allowed water from the canal to flood claimant's works, it committed a trespass upon claimant's rights that could not be distinguished by the fact that he was merely a contractor in the streets and not the owner of the land upon which the trespass was committed. (*Delamater v. Folz*, 50 Hun 528.)

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The State is liable only for damages caused by its own negligent acts, or to put the statement in another form, where damages are claimed for leakage from the canal, it is not liable if the damages claimed to have been suffered by leakage would have occurred notwithstanding its negligence. (*Carhart v. State*, 11 App. Div. 1; *Ostrander v. State*, 112 App. Div. 875; *Gray v. State*, 12 C. C. 71; *McDonald v. State*, 12 C. C. 79; *Zimmerman v. State*, 12 C. C. 88.)

Under such circumstances, the burden of showing the facts from which it could be deduced that the water that came into the trenches through the drilled holes was water for which the State was responsible, was upon the claimant, the court not being allowed to speculate upon this branch of the case but being forced to look to the evidence for proof of the alleged fact that the water which filled claimant's trenches, aside from that which came from the break, was water from the canal.

(Decided July 25, 1910.)

Eugene J. Dwyer, for claimant.

The Attorney-General, for the State.

RODENBECK, J. The claimant as a contractor undertook to construct for the City of Rochester a system of sewers in certain streets of the City, part of which lay on the south side and part of which lay on the north side of the Erie canal.

He made such an examination of the section of the City in which the sewers were to be built as he deemed necessary to make an intelligent and profitable bid (Sten. Min., p. 45) and found in excavating his trenches in those streets lying northerly of the canal more water than he had expected and asks the State to compensate him for the additional expense to which he was subjected for damage and also for damages that were occasioned to his works by a break which occurred in the bank of the canal.

That portion of the territory lying north of the point where the break occurred was low wet ground, situated in a pocket formed by the canal and a public highway (Sten. Min., p. 162) and had caused the State a good deal of trouble in providing drainage for the water that accumulated there.

The wet condition of the land was partly due to the presence of springs which formerly existed but also to the leaky condition of the canal bank which became so bad that it finally broke and flooded claimant's works.

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The State is liable with reference to the facts in this claim the same as if the claim were one against a private individual or corporation (Code of Civil Procedure, § 264) and the claimant being by authority of the City of Rochester in the streets embraced in his contract for the purpose of building sewers had a right to expect that no one, including the State, would trespass upon his rights without liability for the damages which might be occasioned him thereby.

With respect to the injury caused by the break in the canal bank there is no substantial dispute and the claimant should be allowed the damages which he has proven were caused thereby.

This conclusion with reference to the damages caused by the break is a proper one, since the proofs clearly show that the State was negligent in the care of the canal bank and that the water that came through the break actually invaded the trenches and works of the claimant and caused him considerable damage.

The State could not negligently cause water to fill the trenches of the claimant and otherwise damage him without making compensation therefor any more than it could negligently throw earth, rock or any other substance upon his works to his injury. (*Sipple v. State*, 99 N. Y. 284; *Reed v. State*, 108 N. Y. 407; *Brown v. State*, 11 C. C. 173; *Duffy v. State*, 11 C. C. 187.)

The State in negligently allowing water from the canal to flood claimant's works committed a trespass upon claimant's rights that can not be distinguished by the fact that he was merely a contractor in the streets and not the owner of the land upon which the trespass was committed. (*Delamater v. Folz*, 50 Hun, 528.)

These principles apply also to the damages caused by the leakage from the canal but it was incumbent upon the claimant with respect to this item of complaint to connect the leakage with the damage done as cause and effect.

There is no distinction to be drawn between the break in the canal bank which turned a large volume of water upon the claimant's works and the leakage in the canal bank which let the water down in small quantities provided that some connection between

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the leakage and the alleged damage can be shown as between the break and the resultant injury.

The leaky condition of the canal bank must be admitted. It is testified to among others by the former superintendent of this division of the canals and by the former assistant superintendent of public works for this division (Sten. Min., pp. 109, 147 et seq.). The north bank of the canal south of the sewers leaked during the construction of the sewers (Sten. Min., pp. 52, 53) and the State prior to the construction of the sewers had caused to be built drains and ditches to take care of this leakage (Sten. Min., p. 127) but there is no proof that this water caused any damage to the claimant. It was not surface water that was taken care of by drains and ditches that flooded the trenches but water underneath the rock and between the ledges in the rock. This water made its appearance through the holes drilled in the rock some of them eight or nine feet in depth (Sten. Min. p. 20). The claimant said that he believed that this was canal water (Sten. Min., p. 20) but this statement is a conclusion not warranted by any proofs in the case (Sten. Min., p. 223). The claimant had the burden of showing the facts from which it could fairly be deduced that the water that came into the trenches through the drilled holes was water for which the State was responsible. The court will not be allowed to speculate upon this branch of the case but must look to the evidence for proof of the alleged fact that the water which filled claimant's trenches aside from that which came from the break was water from the canal. It is well known that in excavations if carried to any depth water is generally found and in this section where these sewers were built water was to be expected in the trenches from natural sources and the proofs show that water came into the trenches which it is admitted did not come from the canal. If the water made its appearance in greater quantities after the navigation of the canal it was probably due to other causes than that for which the State was responsible since during the preceding winter there had been from 2½ to 3 feet of water in the canal. (Sten. Min., p. 11.)

Any claim that when the canal season opened the additional water let into the canal forced water through underground chan-

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nels through the drill holes into the sewer trenches, is a mere speculation upon which there is no competent proof. If more water came through the drill holes when the water was let into the canal for the navigation season than prior thereto that fact must be connected with some negligence on the part of the State to make it the basis for a recovery by the claimant.

The State is liable only for the damages caused by its own negligent acts or to put the statement in another form, it is not liable if the damages claimed to have been suffered by leakage would have occurred notwithstanding its negligence. (*Carhart v. State*, 115 A. D. 1; *Ostrander v. State*, 112 A. D. 875; *Gray v. State*, 12 C. C. 71; *McDonald v. State*, 12 C. C. 79; *Zimmerman v. State*, 12 C. C. 88.) The claimant would have been put to some expense for drainage if the canal had never been built and there is an absence of proof showing that the water that came into the trenches did in fact come from the canal and that there was any damage from leakage that can be charged to the negligence of the State in maintaining the canal bank. It does not appear that the water which was shown to have come from the leakage of the canal ever reached the claimant's trenches but rather that it was conducted by drains and ditches into a former natural water-course. (Sten. Min., pp. 37, 51. 61.)

The claimant has failed to show that the negligence of the State in maintaining the canal bank whereby it was permitted to leak added anything to the expense which he was subjected to from natural conditions and he is entitled to an award only for the damages resulting from the break amounting to \$1,338.52 with interest from the date of the filing of his claim.

JOHN S. MAYNARD and IDA M. MAYNARD v. THE STATE OF NEW YORK.

Claim No. 9608.

Claim for Permanent Appropriation of Land.

The Railroad Law provides that railroads are required to construct "farm crossings and openings with gates therein at such farm crossings whenever

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and wherever reasonably necessary" (section 32), which is a continuing obligation and applies, where, subsequent to the acquisition of its right of way by a railroad, part of a farm is appropriated in condemnation proceedings, which cuts off the only existing farm crossing, regardless of whether the right of way of the railroad was acquired by agreement or by condemnation proceedings, unless it is clear that the railroad company was relieved from the obligation to construct further crossings. (*Jones v. Seligman*, 51 N. Y. 190; *Beardsley v. Lehigh Valley R. R. Co.*, 142 N. Y. 173.)

Where a right of way which a railroad has constructed from the remainder of a farm leads to a parcel that the State has appropriated for Barge canal purposes, and a parcel lying between the railroad and the canal has not been appropriated by the State, the State is not liable for damages because of the isolation of the parcel not appropriated, as the railroad has control of its right of way and it is proper that it should be required to build whatever crossings are necessary upon the completion of its road and such other crossings as may become necessary by a change in ownership or a division of the farm whether brought about by agreement or by condemnation.

(Decided July 25, 1910.)

Hugo Hirsh, for claimant.

The Attorney-General, for the State.

RODENBECK, J. This is a claim for the appropriation of 2.301 acres of land from a farm of 154.5 acres situate in the town of Royalton, Niagara county. The land was appropriated January 20, 1909 and the claim filed June 30, 1910 for the sum of \$800.

The New York Central and Hudson River Railroad Co. runs along the northerly boundary of the farm leaving land intervening between the railroad and the canal. Part of this intervening land the State has appropriated and the right of way which the railroad has constructed from the remainder of the farm leads to the parcel that the State has appropriated. About five acres lying between the railroad and the canal were not appropriated by the State and it is claimed that the railroad could not be required by law to construct a crossing at its own expense to these five acres and that the appropriation isolated them from the rest of the farm.

The damages testified to by the claimant's witnesses were upon the theory that the railroad company could not be required to construct a crossing and that the five acres were without access, while

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the damages testified to by the State's witnesses were upon the basis that a railroad crossing could be compelled by legal proceedings.

The railroad law provides that railroads are required to construct "farm crossings and openings with gates therein at such farm crossings whenever and wherever reasonably necessary." (Railroad Law, § 32.) This is a continuing obligation and applies where subsequent to the acquisition of its rights of way by a railroad, part of a farm is appropriated in condemnation proceedings which cuts off the only existing farm crossing. It matters not whether the right of way of the railroad was acquired by agreement or by condemnation proceedings unless it is clear that the railroad company was relieved from the obligation to construct further crossings. (*Jones v. Seligman*, 81 N. Y. 190; *Beardsley v. Lehigh R. R. Co.*, 142 N. Y. 173.) There is no obligation in this case on the part of the State or the owner so far as the proofs show to construct crossings and the award herein should not be made upon the theory that the State or the owner will bear this expense. The railroad has control of its right of way and it is proper that it should be required to build whatever crossings are necessary upon the completion of its road and such other crossings as may become necessary by a change in ownership or a division of the farm whether brought about by agreement or by condemnation.

WILLIAM H. SMITH and FRANCES L. SMITH v. THE STATE OF
NEW YORK.

Claim No. 9629.

Claim for Permanent Appropriation of Land.

Where the State appropriated property consisting of a hotel, barn and other buildings the claimant was held entitled to recover only the market value of the property, even though it would be difficult, if not impossible for him to utilize that amount in a way so that he would receive the same income therefrom as he had been receiving from the land appropriated by the State.

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As the original title to most of the land of the State was in the State itself, it is subject to be taken for public purposes by the State upon payment of the market value of the property, which is the compensation provided for by the Constitution.

(Decided July 25, 1910.)

Hugo Hirsh, for claimant.

The Attorney-General, for the State.

RODENBECK, J. This appropriation consists of a hotel and adjoining barn and other buildings necessary therefor, situate in the town of Western, county of Oneida. The land embraces an area of .585 of an acre. The appropriation was made April 12, 1909 and the claim was filed July 31, 1909. The estimates of the witnesses for the State range from \$1,600 to \$1,700 while those of the claimant go as high as \$3,500. The entire property is appropriated. The main building was used for hotel purposes and is a square building two stories high with a flat roof. It is located in a desirable situation along the Black river canal and has been used as a means of livelihood by the claimant and his family for upwards of thirty years. The claimant testified that the property had cost him all told \$3,700 and that he had been offered \$2,500. The estimates of the State's witnesses are too low. As an illustration one of the witnesses placed the land which consists of half an acre at \$100 which is the price at which many farms sell per acre. The land is a good site for a small business such as that for which it was used and is fairly worth \$300. The hotel building is worth \$1,500 and the additional building \$300, making a total award of \$2,100. This amounts represents the market value of the property and is the compensation provided for by the constitution although it will be difficult if not impossible for the claimant to utilize that amount in a way so that he will receive the same income therefrom as he has been receiving from the land which has been appropriated by the State. As the original title to most of the land of the state was in the state itself, so it is subject to be taken for public purposes by the state upon making just compensation provided by the constitution. The claimant is entitled to an award of \$2,100.

Opinion by Rodenbeck, J.

LINA O'BRYAN, as Administratrix, etc., v. THE STATE OF NEW YORK.*

Claim No. 9650.

Claim for Personal Injury.

Under the provisions making the State liable only where upon the same facts an individual or corporation would be liable (Canal Law, § 47; Code of Civ. Proc., § 264) the State is entitled to the benefit of the provisions of the Highway Law (L. 1890, ch. 560, § 154; L. 1909, ch. 30, § 331) relating to the load which town bridges are required to bear.

Where the statute exempting a town from liability for the collapse of a bridge under a load of four tons or over (L. 1890, ch. 30, § 154) was amended by increasing the load to eight tons or over, the State has a reasonable time after the amendment takes effect to reconstruct its bridges to meet the requirements of the increased load and where an accident occurs 103 days after the amendment takes effect a reasonable time has not elapsed to charge the State with negligence for delay in reconstructing a bridge which fell with a load exceeding four and one-half tons.

The State was held to be exempt from liability where an engineer undertook to drive over a canal bridge in a town a load weighing four and one-half tons and he was held to have assumed the risk in passing over the bridge where he had examined the bridge and after such examination reached the conclusion that it was safe and undertook to cross and went down with the bridge.

(Decided July 25, 1910.)

J. A. Johnson, for claimant.

The Attorney-General, for the State.

RODENBECK, J. The claimant's intestate met his death while driving a traction engine over a State bridge known as the Pecksport bridge which spans the old Chenango canal, now used as a canal feeder in the town of Eaton, Madison county, May 31, 1910.

He was working for the highway commissioner of the town as an engineer and was driving a traction engine weighing four and one-half tons, and when nearly over the bridge the engine broke through the bridge and claimant's intestate was killed.

* Reported in 68 Misc. 618; 125 N. Y. Supp. 490.

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The bridge was built about thirteen years before the accident, was twenty-six and one-half feet long between the abutments, fourteen feet wide and consisted of a wooden beam and truss on each side with a needle beam through the center with joists resting on the abutments and on the needle beam, and hemlock plank flooring.

The bridge had been repaired about a year before the accident by placing five new girders on each side of the needle beam and reflooring the entire bridge.

As the intestate and the highway commissioner approached the bridge they examined it and, regarding it as safe, placed timbers over the bridge lengthwise on each side for the wheels of the engine to run upon, and while the intestate was in the cab of the engine and the highway commissioner was ahead directing his course, the bridge gave way after the rear wheels of the engine had passed two and one-half feet over the needle beam.

The liability of the State for the death of claimant's intestate rests entirely upon statute. The right to file a claim against the State for the intestate's death undoubtedly accrued to the claimant (Canal Law, § 47; Code of Civil Procedure, § 264), but the liability of the State is limited to cases where the facts would create a legal liability were the same established in evidence in a court of justice against an individual or a corporation (Canal Law, § 4; Code of Civil Procedure, § 264); so that if under the facts in the case before us, the town of Eaton would not be liable were the bridge in question a town bridge, no liability attaches to the State.

The provision of the Code of Civil Procedure is as follows:

"In no case shall any liability be implied against the state, and no award shall be made on any claim against the state except upon such legal evidence as would establish liability against an individual or corporation in a court of law or equity." (§ 264.)

The provisions of the Canal Law are as follows:

"There shall be allowed and paid to every person sustaining damages from the canals or from their use or management, or resulting or arising from the neglect or conduct of any officer of the state having charge thereof, or resulting or arising from any accident, or other matter or thing connected

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with the canals, the amount of such damages to be ascertained and determined by the proper action or proceedings before the court of claims; but no judgment shall be awarded by such court for any such damages in any case unless the facts proved therein make out a case which would create a legal liability against the state, were the same established in evidence in a court of justice against an individual or corporation." (Canal Law, § 47.)

The expression "individual or corporation" used in the foregoing provisions includes a town since it was the manifest intention of the Legislature that the State should be liable upon claims made against it only where a recovery could be had on similar claims in the ordinary courts of the State against other parties. For certain purposes a town is regarded as a corporation. (General Municipal Law, L. 1909, ch. 29, § 2.) The Town Law defines a town as a corporation:

"A town is a municipal corporation comprising the inhabitants within its boundaries, and formed for the purpose of exercising such powers and discharging such duties of local government and administration of public affairs as have been, or may be conferred or imposed upon it by law." (Town Law, § 2.)

If there is any statute which would relieve the town of Eaton from liability under the facts in this case the same statute would operate to relieve the State. (*Warner v. State*, 132 A. D. 611.) Such a statute is found in the Highway Law:

"No town shall be liable for any damages resulting to person or property, by reason of the breaking of any bridge, by transportation over same of any vehicle and load together weighing four tons or over but any owner of such vehicle or load or other person engaged in transporting or driving the same over any bridge, shall be liable for all damages resulting therefrom." (Highway Law, L. 1890, ch. 560, § 154.)

The highway laws of the State were investigated by a committee of the Legislature, and a revision of these laws was presented to the Legislature of 1909 for enactment and in the re-enacted Highway Law the provisions of the old Highway Law became section 331 of the new Highway Law as follows:

"No town shall be liable for any damage resulting to person or property by the reason of the breaking of any bridge, sluice or culvert, by transportation on the same of any traction engine, portable piece of machinery, or of

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any vehicle or load, together weighing eight tons or over, but any owner thereof or other person engaged in transporting or directing the same shall be liable for all damages resulting therefrom." (Highway Law, L. 1909, ch. 30, § 331.)

It will be observed that one of the changes made in the section of the old Highway Law was in the maximum weight that a town bridge was required to sustain. This weight was changed from "four tons or over" as it appeared in the old Highway Law to "eight tons or over" as it appears in the new Highway Law.

The foregoing provisions being the measure of the State's liability claimant is not entitled to recover. The weight of the engine alone was four and one-half tons (Sten. Min., p. 23), in addition to this weight there was upon the engine operating it the intestate, who weighed 160 pounds (Sten. Min., p. 28), and the engine was drawing a road scraper which further added to the total strain on the bridge. The intestate and the highway commissioner had crossed the bridge about a year previous with the same engine and about that time it had been repaired by placing five new girders on each side and reflooring the entire bridge. As they approached the bridge on the day of the accident they examined it and decided that it was safe to cross. (Sten. Min., pp. 54, 55, and 74.) They procured timber to lay upon the floor of the bridge for the wheels of the engine to pass over and placed these so that the ends of the eighteen-foot timber were some distance from the abutments of the bridge. These beams as placed were an added weight to the bridge instead of a support as they might have been if they had been placed from the needle beam to each abutment. As the rear wheels of the engine passed over the needle beam and about two and one-half feet therefrom the engine crashed through the bridge. It appears that there was some decay at the ends of the girders which remained after the accident hanging to the bridge, but the timbers appeared to be sound where they broke and the breaks were fresh breaks. (Sten. Min., p. 116.) The conclusion from the evidence is that the bridge was in safe condition for ordinary travel, but was not sufficiently strong to bear the weight of the load of four and one-half tons which the intestate undertook to drive over it and under these facts the State is not liable.

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While the provisions of the new Highway Law prescribed a maximum weight of eight tons this provision had only been in force since February 17, 1909, or 103 days before the accident, which occurred May 31, 1909. The time that had elapsed between the date the Highway Law became effective and the date of the accident is not sufficient to charge the State with negligence in not reconstructing the bridge to meet the requirements of the increased load.

At the time that the bridge was constructed and repaired it was only required to carry a load of four tons and any person undertaking to draw a larger load than four tons over the bridge while the old Highway Law was in force did so at his own risk. The intestate and the highway commissioner are presumed to have known of the provision of the Town Law prescribing the maximum weight that town bridges were required to sustain, and they must have known of the weight of the engine which they undertook to drive over this bridge. Both of them examined the bridge and had as good knowledge of its condition as the State. The highway commissioner, who accompanied the intestate, had inspected the bridge, was familiar with its condition and was an expert on the strength of bridges. In assuming to pass over it with the knowledge that he had as to the weight of the load and the condition of the bridge, the claimant assumed the risk and the claim should be dismissed whether we view it from the standpoint of the alleged negligence on the part of the State (*Kelly v. Town of Saugerties*, 110 A. D. 561) or from the standpoint of contributory negligence on the part of the intestate. (*Johnson v. Town of Denning*, 106 A. D. 343; *Spencer v. Town of Sardinia*, 42 A. D. 472.)*

* This judgment was reversed in 148 App. Div. 542; 132 N. Y. Supp., 1098. A portion of Judge Kellogg's opinion reads as follows:

"The Highway Law (Laws of 1908, chap. 330) was a consolidation of the previous laws upon the subject, and section 291 exempts a town from liability for damage caused by the fall of a bridge while a traction engine or other vehicle or load weighing eight tons or over is upon it. This section was effective February 17, 1909; the bridge fell May thirty-first, 103 days thereafter. This provision of the statute was re-enacted as section 331 of chapter 25 of the Consolidated Laws (Laws of 1909, chap. 30.)

"It is urged that when the State was called upon to rebuild or strengthen its numerous bridges connected with the highway system of the State, that

Milton v. State of New York.

THOMAS M. MILTON v. THE STATE OF NEW YORK

Claim No. 9709.

Claim for Permanent Appropriation of Land.

A claimant is not entitled to any allowance for the business conducted upon the property appropriated although this fact may be considered in connection with estimating the value of the property.

An award of \$600, together with expense of abstract, made where the claimant had constructed upon the land appropriated, a boathouse which he used as a drydock and for storing boats, said claimant having testified that he paid \$100 for the lot and \$500 for the boathouse four or five years before said appropriation, and there being no evidence that the property was worth any less at the time of the appropriation than it was when it was purchased and built by the claimant.

(Dated July 25, 1910.)

Barnum & Wells, for claimant.

The Attorney-General, for the State.

RODENBECK, J. The appropriation in this claim consists of a lot in the town of Hastings, Oswego county, on the Oneida river. The claimant had constructed upon the appropriated land a boat-house which was used as a dry dock in the summer and for storing boats in the winter. He testified that he paid \$100 for the lot

a neglect to repair this bridge for 103 days was not a negligent act and that the State violated no duty in allowing the bridge to remain in its former condition for that length of time. I think otherwise. While undoubtedly the State had many bridges to rebuild and strengthen, it has great resources at its command and should not be permitted to shirk its duty to the public. If for any reason (none is shown) it was unable to reconstruct this bridge within the time, it clearly was able to give to the public some reasonable notice that the bridge was not able to sustain the statutory load. The intestate, without such notice, had reason to believe that the State had performed its duty and that the bridge was reasonably safe for the load which he was putting upon it, which the evidence indicates did not exceed five tons. It cannot be said under all the circumstances that the intestate was guilty of contributory negligence which brought about or contributed to his death. The judgment, therefore, should be reversed upon the law and the facts and a new trial granted."

All concurred.

Judgment reversed on law and facts and new trial granted, with costs to appellant to abide event.

Opinion by Rodenbeck, J.

and that the boathouse cost him \$500, four or five years prior to the appropriation. The estimates of the value of the property taken range from \$350 to \$1,000. The claimant presented a statement in detail of the labor and material necessary to construct the boathouse which aggregated about \$500. The claimant is not entitled to any allowance for the business conducted upon the property, although this may be considered in connection with estimating the value of the property. The estimates of the claimant's witnesses who appraised the property at \$850 to \$1,000, respectively, make considerable allowance for what they called the "business" of the claimant conducted upon the property. There is no evidence that the property was worth any less at the time of the appropriation, August 24, 1908, than it was when it was purchased and built upon by the claimant. He should be allowed the sum of \$600, besides \$2.70 for the expense of securing an abstract.

CHARLES STEVENS v. THE STATE OF NEW YORK.

Claim No. 9751.

Claim for Leakage. Duty of Claimant to Reduce Damages.

In a claim for damage from leakage, where it appeared that former recoveries had been had for the same alleged negligence on the part of the State, and the Court was satisfied that the claimant had not exerted himself to avoid the recurrence of damages, and where the testimony was of a somewhat general nature and claimant's books, which he asserted showed his losses in rent, were not in court, and no tenant was sworn to show he had moved out of claimant's premises because of their wet condition, and as only a slight expense was required to obviate any further damage, *Held*, That an award for a small sum was sufficient to cover all the damages for which the State should respond, as it was the duty of the claimant to use all reasonable measures to reduce his damages as much as possible.

(Decided July 25, 1910.)

George T. Davis, for claimant.*The Attorney-General*, for the State.

RODENBECK, J. The property involved in this claim is situate on the north side of the Black River canal and consists of Nos. 226,

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228, 230 Spring street in Rome, N. Y., with a single and double-frame house. It is claimed that the State does not keep the banks of the canal in proper repair and that the water from the canal seeps through them and renders the property untenable at times. Another source of complaint is the backing up of water upon claimant's property through the operation of the lock which is just west of the claimant's premises. Many years ago the State, for the purpose of draining claimant's premises, constructed a box drain and by means of it connected the cellars of claimant's houses with a waste weir. This drain it is claimed was allowed to go into decay and was out of repair during the period for which damages are claimed.

Former recoveries have been had for the same alleged negligence on the part of the State in maintaining the banks of the canal and the box drain in question. Two claims were adjusted without suit and amounted respectively to \$350 and \$370. (Sten. Min., p. 18.) The third claim which covered parts of the years 1904, 1905 and 1906 was tried in this court and an award made of \$550.

At the time of the trial of the claim preceding this one the court reached the conclusion from the evidence then presented that the State had been negligent and had openly omitted to take steps to obviate damages to the claimant for causes which were well known to State officers. (*Stevens v. State*, 13 C. C. 111.)

In the trial of the present claim a different impression was created upon the court by the evidence and we are not disposed to make an award to the claimant for the amount of damages which he claims to have suffered during the years 1908 and 1909. The court became satisfied that the claimant had not exerted himself to avoid the recurrence of damages and that there was not sufficient evidence before the court to justify the finding that the claimant's premises were vacant during the times claimed, because of the acts of the State.

No details of the vacancies were presented by the claimant. His testimony was of a somewhat general nature and the books which he claimed showed his losses in rents were not in court. No tenant was sworn to show that he had moved out of the premises because of their wet condition. The evidence upon the extent of the loss

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of rents for which the State should compensate the claimant is of too unsatisfactory a character upon which to base an award to the extent of that claimed. The loss may have been wholly or partly due to the undesirable location of the premises and not at all to the leakage. Claimant insisted upon the loss of rents during the winter months when there was no water in the canal, and while it may be true that the premises were vacant because of their damp condition there is no proof sufficient to justify the court in reaching any such conclusion. It does not appear that the claimant has exercised that care over his premises to obviate or minimize the damages as he was required to do to warrant the court in awarding such damages as he claims. It was his duty to use all reasonable measures to reduce his damages as much as possible, and it appears that shortly after the award of the court in the preceding claim at an expenditure of twenty-nine dollars, all damages resulting from the box drain were obviated (p. 18). We believe that had the claimant been active in securing relief from the flooding he could have secured the co-operation of the State officials and that a comparatively small expenditure would have kept his premises in a tenantable condition. Even if he had not been able to secure the co-operation of the State officials the damages would have been much reduced by taking such measures upon his own property as would have been sufficient to keep the premises free from water from the canal.

The liability of the State, however, was admitted upon the trial (Sten. Min., p. 2) and some award must, therefore, be made. There is no evidence that in the settlement of prior claims the State took any steps to avoid further damages and at the same time there is an absence of proof that the claimant was diligent in the same direction. The State has no right to allow the banks of the canal to leak and the water to flow upon claimant's land nor to leave the flume leading from the waste weir from the claimant's property to become out of repair, and some award must be made, but in view of the slight expense which was sufficient to obviate any further flooding from the flume we think an award of \$114.50 is sufficient to cover all the damages for which the State should respond under the facts in the case.

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GEORGE A. STEVENS v. THE STATE OF NEW YORK.

Claim No. 9471.

Measure of Damages for Farm with Timber.

Where land appropriated by the State had formerly been part of a farm and had upon it a first growth of timber, it is to be treated as farm land in arriving at its value, the timber, however, being an item to be considered with the other elements, although it is not to control nor form the basis for estimating the compensation. The rule to be followed in such a case is "what was the value of the farm before the appropriation and after the appropriation, taking into account the nature of the soil and the condition of the farm."

(Decided July 25, 1910.)

J. H. and H. D. Costello, for claimant.*The Attorney-General*, for the State.

RODENBECK, J. The State appropriated April 8, 1908, 19.49 acres from a farm of 260 acres situate in the town of Clay, county of Onondaga. The appropriation separated from the rest of the farm a three-acre parcel. Upon the land appropriated there was a first growth of timber which, according to one of the witnesses for the claimant, would yield from 6,500 to 7,000 feet per acre, worth \$25 a thousand feet. He also estimated the amount in value of the cordwood, slabwood and sawdust, making an extensive damage if the compensation is to be measured upon such a basis. The property, however, is to be estimated as farm land, and while the timber upon it is an item to be taken into account with other elements, it is not to control and is not to form a basis for estimating the compensation. The witnesses for the claimant took the value of the timber as the measure of damages, although it appeared from their testimony that timber lands had been purchased at substantially farm values. We think the rule to be followed in this case is what was the value of the farm before the appropriation and after the appropriation, taking into account the nature of the soil and the condition of the farm. The witnesses for the State

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appraised the land actually taken at considerably more than the estimates placed upon the value of the farm per acre. The appropriation does not deprive the farm of all of its timber and, therefore, the element of damage to the remainder for the loss of timber is not an important one. Estimating the land actually taken, including the timber and considering the other elements involved in the appropriation, we think an award of \$1,850 fairly represents the damages that claimant has suffered.

CHARLES B. TAYLOR and EDITH M. TAYLOR *v.* THE STATE OF
NEW YORK.*

Claim No. 9537.

WILLIAM D. McFADDEN *v.* THE STATE OF NEW YORK.

Claim No. 9896.

NORMAN A. FOWLER *v.* THE STATE OF NEW YORK.

Claim No. 9897.

Conflicting Claims of Landlord and Tenant.

The Legislature has no power to create a court wherein suitors are compelled to try issues without consent which they have a constitutional right to try in the regular courts and there is nothing in the act creating the Court of Claims which indicates an intention on the part of the Legislature to compel suitors to try issues between them in that court.

While jurisdiction cannot be created by the consent of parties where the Constitution or the Legislature has not conferred it, it may be waived where it exists, and where the Constitution confers upon certain courts jurisdiction to try certain issues and the Legislature confers upon the Court of Claims jurisdiction to pass upon the same issues where they are involved in a claim made against the State, the parties may waive their constitutional right to have the issues determined in the regular courts and submit themselves to the jurisdiction of the Court of Claims.

The statutes relating to the Court of Claims and the Barge Canal Act (L. 1903, ch. 147, § 4, as amended by L. 1908, ch. 196), taken together may be fairly construed to mean that the Legislature intended that where all the

* Reported in 124 N. Y. Supp. 818.

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parties did not consent to have their respective interests which the State appropriated determined by the Court of Claims, a gross award should be made for the aggregate interests and then the parties should be remanded to the regular constitutional courts for a distribution between them of their respective interests.

(Decided July 25, 1910.)

Hugo Hirsch, for Taylor and wife.

George F. Thompson, for McFadden and Fowler.

The Attorney-General, for the State.

RODENBECK, J. The claimants in claim No. 9537 were the owners of a block in the village of Middleport, Niagara county, which was appropriated by the State, December 14, 1908, and the claimants in claims Nos. 9896 and 9897 were tenants on the property at the time of the appropriation.

At the close of the hearing of the claim of the owner, the tenants appeared by attorney and asked the court to fix their share in any award that might be made to the owner. To this the attorney for the owner objected on the ground of the absence of jurisdiction in the court to determine a controversy between the parties, and the hearing proceeded as to the interests of the tenants under this objection.

The Court of Claims is not referred to by name in the Constitution but it has a constitutional existence by virtue of the provision in the Constitution which prohibits the Legislature from auditing or allowing any private claim or account against the State, and authorizes it to make appropriations to pay claims when they shall have been audited and allowed according to law (State Constitution, art. 3, § 19, as amended January 1, 1875); and the provision which says that when private property is taken for public use, the compensation to be made therefor shall be determined by a jury or by not less than three commissioners appointed by a court of record as shall be prescribed by law, except when such compensation is made by the State. (Art. 1. § 7.)

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There had existed for many years, prior to 1875, canal appraisers (R. S., pt. 1, ch. 9, tit. 9, art. 2) who passed upon allowances for appropriations and certain claims connected with the canals, and the Legislature previously had audited and allowed claims of other character, but in 1876, after the adoption of section 19 of article 3 of the Constitution, the State board of audit was created by the Legislature, consisting of the Comptroller, the Secretary of State and the State Treasurer, whose duty it was to hear all private claims and accounts against the State, except such as were heard by the canal appraisers. (L. 1876, ch. 444.) In 1883 the canal appraisers and State board of audit were abolished and the board of claims was created with jurisdiction to hear, audit and determine all private claims against the State which shall have accrued within two years. (L. 1883, ch. 205.) The Constitution of 1895 left open the whole matter of the creation of an appraiser, board or court to determine claims against the State, including claims that might arise out of the exercise of its power of eminent domain. In 1897 the board of claims was abolished and the Court of Claims was created with all the powers and jurisdiction of the board of claims, and jurisdiction generally to hear and determine private claims against the State which shall have accrued within two years before the filing of the claim. (L. 1897, ch. 36.) The latter statute was an amendment of the Code of Civil Procedure and contained the provision that the court may bring in parties necessary to the complete determination of a controversy in matters over which the court has jurisdiction and may render judgment for or against any of the parties as may be equitable. (Code of Civil Procedure, § 281.) In the exercise of its power, therefore, the Legislature has vested the Court of Claims, by provisions of the Code of Civil Procedure and the Barge Canal Act and other statutes, with power to pass upon certain private claims against the State, including appropriations in connection with the Barge canal.

It might be contended from the foregoing that notwithstanding the provisions of the judiciary article creating courts for the determination of controversies between citizens (State Constitu-

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tion, art. VI) this court has not only the power conferred upon it by statute to pass upon the amount of damages to be allowed in appropriation cases, but the implied jurisdiction to pass upon all incidental questions that may arise in connection with the exercise of this power, including disputes between two parties over the award for property that has been appropriated. If this contention is correct and there is that inherent power in the court derived from the general jurisdiction conferred upon it, the court would have power in this instance without the consent of the owner to pass upon the amount of the tenant's interest after the owner has been made a party to the proceeding and given an opportunity to be heard.

As against this view, however, there is the position that this court, being a statutory court, has only such powers as are conferred upon it by the statute creating it and which come within the authority of the Legislature to enact, and that it cannot pass upon any disputes between citizens which under the Constitution are triable in the ordinary constitutional courts.

The judiciary system of the State is provided for in the State Constitution and it vests the Supreme Court with general jurisdiction in law and equity. (State Constitution, art. 6.) This language forbids the transference of this jurisdiction to other courts so as to restrict citizens in the right thus granted to them. In the case of *State v. County of Kings*, 125 N. Y. 312, the State undertook to authorize the board of claims to determine a claim of the State against certain counties. The case did not turn upon the constitutional right of the Legislature to permit the State to sue the counties in a court of its own creation, but upon this question Chief Judge Ruger said: "We do not question the fact that the Board of Claims is a constitutional tribunal and is lawfully authorized to determine claims against the State which may have been referred to it but it does not follow that the legislature can compel citizens to appear before it and litigate claims made by the State or any other party against them. * * *

This however does not necessarily authorize the legislature to create a judicial tribunal of general jurisdiction to hear and

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determine legal questions which are cognizable in the regular constitutional tribunals of the State." (p. 322.) A long list of cases affirms this doctrine. (*DeHart v. Hatch*, 3 Hun 375; *Anderson v. Reilly*, 66 N. Y. 189; *Alexander v. Bennett*, 60 N. Y. 204; *Mussen v. Ausable Granite Works*, 63 Hun 367; *Getman v. Mayor of New York, etc.*, 66 Hun 236; *City of Brooklyn v. Mayor of New York*, 25 Hun 612; *Bell v. Niewahner*, 54 A. D. 530; *People ex rel. Mayor v. Nichols*, 79 N. Y. 582; *People ex rel. Hill v. Supervisors*, 49 Hun 476; *People v. Coughtry*, 58 Hun 245.)

It would seem from these authorities that the Legislature has no power to create a court wherein suitors are compelled to try issues without consent, which they have a constitutional right to try in the regular courts, and there is nothing in the act creating the Court of Claims which indicates an intention on the part of the Legislature to compel suitors to try issues between them in that court.

The Court of Claims was created to try claims against the State and if the Legislature has given it broader jurisdiction, it was undoubtedly the intention that this jurisdiction should be exercised only in cases where the parties consented to submit their issues to the Court of Claims rather than to a court to which they had a constitutional right to apply. Section 246 of the Code of Civil Procedure provides that the court shall have jurisdiction to hear and determine a "private claim against the state" but section 281 seems to confer upon the court a broader jurisdiction. It provides that the court may order parties to be brought in and made parties to any action or proceeding pending in the court whenever it is made to appear that they are necessary to a complete determination of the controversy or the determination of a liability in matters over which the court may have jurisdiction and that in such cases the court "may render judgment for or against any of the parties in such action or proceeding as may be just and equitable." This language would seem to confer upon the court jurisdiction over controversies between private citizens wherever their controversies are involved in the deter-

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mination of the liability of the State, but the section must be construed to mean that such jurisdiction can be exercised only in cases where the parties consent to have issues between them determined in the Court of Claims. There is no legal objection to giving the Court of Claims this jurisdiction, and to its exercising it providing the parties consent thereto. While jurisdiction cannot be created by the consent of parties where the Constitution or the Legislature has not conferred it (*People ex rel. Platt v. Rice*, 144 N. Y. 249; *Matter of Porter*, 34 A. D. 150), it may be waived where it exists (*Anderson v. Reilly*, 66 N. Y. 189), and where the Constitution confers upon certain courts jurisdiction to try certain issues and the Legislature confers upon the Court of Claims jurisdiction to pass upon the same issues where they are involved in a claim made against the State, the parties may waive their constitutional right to have the issues determined in the regular courts and submit themselves to the jurisdiction of the Court of Claims. (*Anderson v. Reilly*, 66 N. Y. 192.)

There is evidence running through the statutes relating to the jurisdiction of the Court of Claims that the Legislature had in mind the limitation upon its power to confer without the consent of the parties jurisdiction upon the Court of Claims in controversies between citizens. The Barge Canal Act gives the court "jurisdiction to determine the amount of compensation for lands, structures and waters so appropriated." (L. 1903, ch. 147, § 4.) Section 269 of the Code of Civil Procedure provides that "where damages are awarded for the permanent appropriation of land for the public use there shall also be filed with the comptroller a satisfactory abstract of title and certificate of search as to incumbrances showing the person demanding such damages to be legally entitled thereto." The Barge Canal Act under which this claim was filed provides that "the attorney-general shall furnish to the comptroller and the state treasurer all searches necessary to prove the title to the lands taken." (L. 1908, ch. 196.) Section 47 of the Canal Law, relating to claims for damages for appropriations, says that they shall not be paid "until a satisfactory abstract of title and certificate of search as to incumbrances shall be fur

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nished showing the person demanding such damages or commutations to be legally entitled thereto which abstract and search shall be filed in the office of the comptroller " and finally section 88 of the Canal Law contains this provision: "When damages are awarded for the appropriation of any lands or waters to the use of a canal and it appears that there is any lien or incumbrance on the property so appropriated, the comptroller may deposit the amount awarded in any bank, in which moneys belonging to such fund may be deposited, to the account of such award, to be paid and distributed to the persons entitled to the same as ordered by the supreme court on application of any person." (*City of Geneva v. Henson*, 195 N. Y. 447; *Matter of William and Anthony Streets*, 19 Wend. 678.)

These statutes taken together may be fairly construed to mean that the Legislature intended that where all the parties did not consent to have their respective interests which the state appropriated determined by this court, a gross award should be made for the aggregate interests and then the parties should be remanded to the regular constitutional courts for a distribution between them of their respective interests. Ordinarily, the words "liens and incumbrances" mentioned in section 88 of the Canal Law would not refer to an interest in an estate by possession, reversion or remainder, although an incumbrance has been held to include a tenancy (*Forster v. Scott*, 136 N. Y. 577), but taken with the other parts of the statutes relating to appropriations for the canal, it may be held to include all the interests in the property and to forbid the court from determining separately these interests, except where all the parties expressly consent thereto so that each will have an opportunity to be heard upon the share of the others and not be prejudiced by the amount awarded.

The practice outlined enables the parties to appear and protect their interests, obviates the determination by the court of what constitutes an interest in "lands, structures and waters," avoids constitutional questions as to the power of the court to determine controversies between citizens which would be involved in deter-

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mining these interests and is in accordance with the practice that has prevailed in the past.

This construction of the statutes is reasonable, protects every interest and provides a simple and practical procedure by confining the questions before the court to the value of the aggregate rights taken, except where all the parties consent to have the separate interests determined. (*People ex rel. Platt v. Rice*, 144 N. Y. 249; *Matter of Porter*, 34 A. D. 150; *Anderson v. Reilly*, 66 N. Y. 189.)

A construction which would require the court in each claim to try the amount of each interest in property would involve the court in many cases in the determination of complicated and serious questions of law between parties not affecting the State in any way, triable ordinarily under the Constitution in the regular courts often by jury, the trial of which by this court was not contemplated when the court was established.

Under this view the award takes the place of the "lands, structures and waters" taken, and every interest whether in possession, by reversion or remainder or by mortgage or other lien or incumbrance attaches to the award (*Youngs v. Stoddard*, 27 A. D. 162; *Burkard v. City of New York*, 6 Misc. 431; *Lodge v. Martin*, 31 A. D. 13) and must be satisfied before the award is paid by the Comptroller or the award must be deposited to be distributed as the interests of each party may appear.

The claimants in claims Nos. 9896 and 9897 are, therefore, remanded to the award made to the owner, out of which their interests must come to be determined among themselves and if it cannot be agreed upon, to be adjusted in the Supreme Court out of the award when deposited by the Comptroller.

Claims Nos. 9896 and 9897 should, therefore, be dismissed.

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NEW ENGLAND BRICK COMPANY *v.* THE STATE OF NEW YORK.

Claim No. 9649.

State not Liable for Flooding caused by unusual Rain. Contributory Negligence of Claimant.

Where it appears that a culvert for carrying away waters of a stream in times of flood was not improperly constructed, and that it was of sufficient capacity to take care of all ordinary rains and such as naturally would be expected in the locality, the State is not liable for damages resulting from the failure of the culvert to carry off the water resulting from the fall of rain during an unusual storm.

Where it appears that a culvert for carrying off the waters of a stream in times of flood has been kept free and clear of obstructions by the State, and it further appears that the claimant has been in the habit of dumping refuse, wood and brick on the banks of the creek, a portion of which during an unusual storm washed down stream against the culvert, the State cannot be held liable for damages resulting to the claimant from flooding of the claimant's premises, due to the choking of the culvert by the washing down of the material against it.

(Decided August 3, 1910.)

Benjamin B. Hutchins, for claimant.

The Attorney-General, for the State.

SWIFT, P. J. This claim was filed to recover damages for the flooding of claimant's brickyard and destroying a large number of green brick moulded, but not finished, and in the kiln, flooding the premises and filling same with mud and sand, and washing away a private bridge, and for destruction of other personal property on the premises.

The premises are situate about one mile southerly from Mechanicville, N. Y., and about 450 feet westerly of the Champlain canal.

A small brook, known as Hart or Hollow brook, runs through the premises of claimant and very near to the buildings on said property. This brook has a drainage area of about two square miles and is situate between abrupt hills, making the run off very

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rapid. This creek is carried under the canal by means of a double culvert, the opening in each being 2 ft. 9 in. by 4 ft. 4 in. The distance through the culvert under the canal is about 60 feet. This was the original construction at the time of the construction of the canal, and had been in that condition many years.

On the 4th of September, 1907, there was a severe rain storm over the drainage area of Hart brook, which raised the waters of said brook to such a height that the culverts under the canal were incapable of carrying the increased flow of water. The water raised above the opening in the culvert and ran over the top of the canal. The water was backed up upon and over the property of claimant and into the kilns, and the damage complained of was caused by such backing up of the water of the creek.

Claimant alleges negligence on the part of the State:

1st. Because the construction of the culvert was improper and did not provide a sufficient opening to properly carry off the waters of Hart creek in times of flood; and

2d. In permitting the openings of the culvert to become and remain filled up to a certain degree with stumps and refuse so that the full capacity of the culvert could not be utilized.

The first question to be determined is the liability of the State for any damage.

The culvert under the canal had openings of 22 square feet which the evidence shows would carry through the culvert 4,000,000 gallons of water per hour when the water was at the height of the top of the opening of the culvert. The top of the towpath of the canal was 13 feet higher than the top of the opening of the culvert, and the water on the 4th of September, 1907, raised above the top of the towpath of the canal, and was running over the towpath into the canal at least one foot in depth.

Hydraulic engineers testified that with that head of water above the top of the opening of the culvert, the culvert would carry through 12,000,000 gallons of water per hour.

The testimony of engineers differed somewhat as to whether the culverts were properly constructed and were of sufficient capacity to take care of the flow of water which might reasonably be expected to flow down Hart creek. It appears from the testimony

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that this was an unusual storm, no other storms of equal severity having occurred in twenty years, and only two such storms since 1826. There was a rainfall on the afternoon of September 4, 1907, over the drainage area of Hart creek, as appears by gauges taken within one mile of claimant's property, of 4 25/100 in. It was a very unusual storm as shown by the fact that while the culverts were carrying at least 12,000,000 gallons per hour, the water rose at least 14 feet above the top of the opening of the culvert between 6 o'clock and 9 o'clock P. M.

I am of the opinion from the evidence that the culvert was not improperly constructed, and that it was of sufficient capacity to take care of all ordinary rains, and such as would naturally be expected in that locality. The bed of this creek was about six feet across and shallow; it had a drainage area of only two square miles, and the openings through the culvert were 22 square feet.

The only remaining question of negligence is, whether the State permitted the openings of the culvert to become filled up to such an extent that it seriously obstructed the flow of the water through the culvert. There was some evidence on the part of the claimant that there was a stump in front of one of the openings prior to the flood of September 4th. There is no proof of how long it had been there, or that the State had any notice of its being there. The superintendent of that section of the canal testified, that the forepart of August, prior to the storm, he had cleaned out the culvert, removing all obstructions in the culvert and several feet up stream from the opening. It appears from the evidence that the claimant had been in the habit of dumping broken brick and refuse on the banks of this creek, and considerable quantities of this broken brick had washed into the bed of the creek and down stream to the culvert and into the culvert, and some had passed through the culvert to the easterly side of the canal.

There was considerable cordwood belonging to claimant piled in the yard near its buildings, and some of this washed down stream against the culverts. After the flood the superintendent of that division of the canal took nearly two carloads of brick, dirt and debris from the opening of the culvert, the most of which was evidently deposited there by the flood of September 4th.

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I do not find any evidence in this case upon which the State should be charged with negligence, either in the construction or maintenance of the culvert. I am of the opinion that the case should be dismissed.

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Claim No. 9736.

Measure of Damages for Land with Fruit Trees. Rule as to Consequential Damages.

Where land and trees are appropriated, it is not proper in appraising the property to estimate its value by placing a separate value upon each tree taken and upon the land. The recognized rule is to appraise the market value by estimating the difference in the market value of the land with and without the trees as a part of it. Some trees have a market value apart from the land, like nursery stock or forest trees good for cutting up into lumber, but ordinarily a tree has a market value only as a part of the soil, and as such it can only be estimated in connection with the soil. It is real estate and there is no rule which allows of its appraisal in these proceedings as if it were removable from the soil and salable as such.

The proper rule for estimating the value of land actually taken is to arrive at its market value. The damages are measured by what a willing buyer would pay a willing seller for it. The fact that the State forces the claimant to surrender his land is not to be taken into account in enhancing the damages. Where the State forces the claimant to surrender his land, it is exercising a right of sovereignty which it has always had. Every citizen holds his land subject to the right of the State to take it back for necessary public purposes. He holds it by virtue of the protection given him by his government and must surrender it when needed for necessary public purposes upon receiving just compensation, and this compensation is not to be enhanced by the fact that he is called upon to surrender the land the title to which originally was in the State.

The just compensation to be made to claimants in cases of this character may be measured by the difference in the value of the property before and after the appropriation, where the question of benefits does not come into play; but where benefits are involved it must be measured by adding to the market value of the land taken, the damages to the remainder of the property, deducting benefits, if there are any, from the damages to the remainder of the property.

(Decided September 30, 1910.)

John Van Voorhis' Sons, for claimant.

The Attorney-General, for the State.

Opinion by Rodenbeck, J.

RODENBECK, J. Claimant is the owner of a farm in the town of East Henrietta, Monroe county, State of New York, consisting of 62.27 acres on one of the main roads running south from the city of Rochester. It has a frontage on the East Henrietta road of 2,151 feet and on the West Fall road of 878.46 feet. The farm is located about 850 feet from the south line of the city of Rochester and not far from the property occupied by the Monroe County Penitentiary, Monroe County Almshouse and State Hospital for the Insane. One of the farms used by the State in connection with its institution is also located across the East Henrietta road from claimant's farm. The farm has the usual farm buildings with a brick house and at the time of the appropriation was used for ordinary farm purposes, except that about 25 acres were occupied by valuable fruit trees, the main portion being made up of extensive orchards of pear trees. There were five orchards: No. 1, consisting of pears, plums, prunes, quinces and cherries; No. 2, of pears set out in 1890; No. 3, of pears set out in 1876, except one or two peach trees; No. 4, of an apple orchard about 90 years old made up of 30 varieties of apples; No. 5, of pears set out in 1862, made up of 30 varieties, valuable chiefly for exhibition purposes. There was also a piece of woods and the remainder of the farm was used for pasture, meadow and ordinary farm purposes.

The farm was widely known for its extensive commercial pear orchards, and the owner had become well known by reason of exhibits made and prizes taken for the excellence of the fruit raised on the farm. The claimant was vice-president of the Western New York Horticultural Society, and had been on the executive committee of the society and chairman of the committee on the railroad classification of fruits for western New York. He had exhibited at State fairs for fifteen years and at various county fairs. He had exhibited at the State Fair at Columbus, Ohio, at the World's Fair at St. Louis, at the Toronto Fair, at Cornell University and at various other exhibitions and had taken numerous premiums and prizes including awards from the Paris Exposition and many others. His orchards had been exhibited to

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students by the professor of pomology at Cornell University as good examples of a large commercial pear orchard, and he and his farm had become well-known throughout the country.

The State of New York made an appropriation diagonally through this farm easterly and westerly comprising 12.811 acres, leaving 49.459 acres. The strip of land thus appropriated was 405.89 feet on its westerly line, 398.64 feet on its easterly line along the East Henrietta road and about 1,330 feet long. North of the appropriated strip there remains 26.938 acres, and south of it 22.422 acres, leaving a frontage on the East Henrietta road north of the appropriated parcel of about 1,300 feet and southerly thereof 269.8 feet. It will thus be observed that of the land remaining the southerly parcel widens out as it recedes from the East Henrietta road, while the northerly parcel narrows up westerly from the East Henrietta road. The appropriation takes a portion of the woods at the westerly end of the farm, a part that was formerly used for pasture and cuts diagonally into orchards 1, 2 and 3. Upon the portion of the orchards thus taken the following trees were taken: 1,613 pear, 104 plum, 50 quince, 19 cherry, 2 apple, 20 peach and 159 forest trees. There were 25 acres of orchard on the farm and 11 acres were embraced within the lines of the appropriation. There was to be a cut through the farm for the canal ranging from 41 to 65 feet. There was to be no deposit of soil upon the remainder of the property, and the East Henrietta highway was to be carried over the canal by what is known as a deck bridge on a level with the highway, the superstructure being below the grade of the street. This appropriation makes it necessary in order for the claimant to reach the orchards and land south of the canal to go by way of the East Henrietta highway from his buildings instead of directly as heretofore increasing the distance between 500 and 600 feet.

In his claim \$68,357 is asked by the claimant as his damages by reason of the appropriation. This amount is made up as follows: Fruit trees, \$48,446. Forest trees, \$421. Repairing fence, \$190. Damage to drains, \$100. Land taken, \$7,200. Damage to remainder, \$12,000.

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The theory upon which claimant asks for these damages is that he is entitled to estimate the value of the property appropriated by placing a separate value upon each tree taken and upon the land. In his bill of particulars attached to his claim he has appraised each of the 99 Bartlett trees at \$21 apiece, each of the 703 Beurre d' Anjou at \$32 apiece, each of the 120 Beurre Bosc at \$26 apiece, each of the 271 Beurre Clairgeau at \$30 apiece and so on, making a total valuation for the fruit trees taken of \$48,446. In the same way he estimates the value of each of the forest trees and adds to this amount the cost of repairing fences, the damage to the drains and \$7,200 for the land taken and \$12,000 for damages to the remainder of the property. This is not the rule for appraising property taken in proceedings of this character. It may be convenient to appraise the value of a single tree destroyed in this way and the same result may be arrived at by this method as by the recognized rule of appraising the market value by estimating the difference in the market value of the land with the trees as a part of it. Some trees have a market value apart from the land like nursery stock for instance, or forest trees good for cutting up into lumber, but ordinarily a tree has a value only as a part of the soil and as such it can only be estimated in connection with the soil. It is real estate and there is no rule which allows of its appraisal in these proceedings as if it were removable from the soil and salable as such. A fruit tree severed from the soil has no value except as firewood and the method of arriving at its actual value is to appraise it as a part of the realty. While a forest tree may have a value for lumber it too may add a value to the realty which can best be estimated by arriving at the difference in the market value of the land with and without the tree. Shade trees in a city have a value to property far in excess of their value as timber and it would be erroneous in most cases to estimate their value distinct from the realty.

The proper rule for estimating the value of the land actually taken is to arrive at its market value. The damages for the land actually taken are measured by what a willing buyer would pay

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a willing seller for it. The fact that the State forces the claimant to surrender his land is not to be taken into account in enhancing the damages. In taking this course the State is exercising a right of sovereignty which it has always had. Under the first Constitution there was no express restriction upon the State's exercise of its power of eminent domain. This right exists as a part of the sovereignty of the State. The insertion of the clause in later Constitutions prohibiting the State from taking private property without due process of law and for other than public purposes upon making just compensation, is merely a limitation upon the power of the State to resume possession of land, the title to which was originally in the State. Every citizen holds his land subject to the right of the State to take it for necessary public purposes. He holds it by virtue of the protection given him by his government and must surrender it when needed for necessary public purposes upon just compensation and this compensation is not to be enhanced by the fact that he is called upon to surrender land the title to which originally was in the State.

The just compensation to be made to the claimants in cases of this character may be measured by the difference in the market value of the property before and after the appropriation where the question of benefits does not come into play. But where benefits are involved it must be measured by adding to the market value of the land taken, the damages to the remainder of the property, deducting benefits, if there are any, from the damages to the remainder of the property. In this instance no question of benefits is involved and the compensation to which claimant is entitled may be measured by taking the difference between the market value of his property before and after the appropriation.

Claimant did not adopt this rule in presenting his evidence but preferred to give the value of the land actually taken and the damages occasioned thereby to the remainder of his farm. In taking this course no error was committed. Three of his witnesses merely estimated the value of the land taken and gave no estimate of the measure of the damages to the remainder of the farm. Four witnesses supplemented their estimate of the value of the land

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taken with an estimate of the damages to the remainder of the property. The latter was the course also pursued by the claimant in giving his testimony. Four of the State's witnesses gave the market value of the property before and after the appropriation, the difference being their estimate of the damages, while three of them merely gave an estimate of the value of the 11 acres of orchard. Claimant's witnesses, Hollister, Gillette, Baird and Pryor, were all called as expert real estate men who had had more or less experience in developing suburban property. They estimated the value of the land actually taken for this purpose at from \$600 to \$800 an acre and placed the estimates upon the damages to the remainder of the farm at from \$12,300 to \$12,741.75, making the range of their damages from \$19,768.40 to \$23,709.05. There is more or less of the element of speculation in the development of suburban property and it is the experience of every person interested in its development that frequently the expected growth of a city is not realized. Cases can be found in every municipality where property has been purchased and laid out into streets and divided into city lots sometimes merely upon paper and oftentimes sold, which has not actually been built upon for many years thereafter. In considering the value of this property for purposes of subdivision the proximity of the county and State institutions must be taken into account, one of the witnesses testifying that in his judgment it depreciated the value of the property for the purpose of suburban development one-half. The other three witnesses of claimant were farmers, neighbors and acquaintances who appraised the value of the orchard land merely. They undertook to place no estimate upon the remainder of the property taken by the State or upon that portion of the farm which was not appropriated. The estimates of these witnesses range from \$4,500 to \$5,000 an acre, but none of them had ever heard of an acre of orchard land selling for any such figure. This valuation must have been arrived at by placing a separate valuation upon each tree which had been taken, a method which as above indicated is not a proper one. Three

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of the State's witnesses were farmers residing within three or four miles of the property. They gave their judgment as to the market value of the property before and after the appropriation and estimated that the property had been damaged about one-half by the taking of about one-fifth of the farm and less than one-half of the orchard. The highest estimate was \$15,350 and the lowest estimate \$12,500. These three witnesses, Todd, Calkins and Hill, are all representative farmers, the first one being the supervisor of an adjoining town, and placed their estimate upon the property upon the theory of what the property would actually bring in the market before and after the appropriation, assuming that there was a willing buyer. The other three State witnesses, Woodard, Jaquin and Ferguson, were men extensively experienced in orchards and the fruit business. Woodard was a man 79 years of age who had been a farmer nearly all his life. For five years he was secretary of the New York State Agricultural Society and had made a study of fruit growing. He had been acquainted with the claimant for 15 years or more and had seen his exhibits at fairs and exhibitions. He had been interested in two large farms, a portion of each of which was covered by orchards and was thoroughly competent to appraise the value of orchard land. The witness Jacquin was a brother-in-law of Woodard interested in the same farms and had followed fruit growing as his avocation in life. He had frequently appraised orchards and had known the claimant for many years and had seen his exhibits and was familiar with the excellent quality of the fruit that he raised. The witness Ferguson was a resident of Lockport and his business in life was that of fruit dealer. He had also been engaged in raising fruits in various States of the Union. He was thoroughly familiar with the pear market for many years and knew the prices that they had brought. These three witnesses appraised the 11 acres of pear orchard at from \$700 to \$850 an acre, making the range of their estimate of the value of the pear orchard from \$8,800 to \$10,849.35.

Upon this testimony the court is called upon to appraise the compensation to which claimant is entitled which under the proofs

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ranges from \$12,500 to \$69,086. In doing this the court as intimated must leave out of consideration any damages because of the fact that the State forces the claimant to surrender a part of his premises for the public good and all elements of sentiment. In the light which the claimant views the situation there is probably no award that this court can make that will satisfy him other than the amount which he claims. His farm has been in the family for many years and was purchased by him over a quarter of a century ago. Part of the orchard was set out by his father and most of it by himself and he has watched it develop from year to year and has brought it to a stage of perfection such as few farms attain. By exhibits of his fruit in this and other States and abroad he has acquired a reputation as a fruit grower perhaps second to none, and to him it seems like ruthless destruction to construct the canal through the heart of his orchards, but this personal element can not be considered in arriving at the compensation to which claimant is entitled and the court must follow the rule laid down for it in such cases of arriving at the compensation by estimating the difference in the market value of the property before and after the appropriation leaving out of consideration all sentiment and other matters which do not enter into the ordinary market value of property. The court might have been guided in this case by the income which claimant derived from his farm but we have not been favored with this evidence. There is proof that the claimant sold the best of his pears in forty pound boxes at \$2.00 a box and some evidence as to what a pear tree would ordinarily produce but there is no evidence as to what the claimant actually realized from these particular orchards. This evidence would not have been conclusive upon the court but it would have been a guide aiding the court to a correct conclusion as to claimant's damages. One at all familiar with fruit growing knows that the crop varies from year to year and that the trees are attacked by diseases which try human skill to eradicate. One witness testified that a pear crop was the "most uncertain crop man can grow" and that it was affected by various diseases and that everything "seems to

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pitch on them." The claimant paid \$300 an acre for the land 26 years ago but at that time it was not so extensively covered with orchards and it is assessed at only \$8,400, but the assessed valuation does not always represent the actual market value of property, although the assessors are required to appraise property at its full value. Some sales of property in that vicinity for suburban property were put in evidence but the valuation placed upon the property was what it realized when sold in subdivided parcels which is not the true measure of its value as acreage land. A large farm of 343 acres with 160 acres of orchard in Niagara county was referred to as having been sold for \$350 an acre but the question here is, what was the market value of this particular farm before and after the appropriation. Other sales are not to control the court but serve merely as guides in arriving at a proper conclusion. Whether we look at the property appropriated as suitable for suburban residences or as farm land, it would not seem to have a valuation in excess of \$1,000 per acre for the land actually taken. This is more than the estimate placed upon the property by the claimant's witnesses who testified as to its value for suburban development and who in placing this value upon it did not regard the land as enhanced to any great extent by the fact that it was covered by orchards. It fairly represented the value of the land taken as a pear orchard. for any such valuation of an ordinary farm of the character and location of this farm for farming purposes would be unprecedented. At the price given per acre the value of the land actually taken would be measured by \$11,000 which is in excess of the estimates placed upon the property by the State's witnesses who testified to the value of the 11 acres as orchard land. It is quite significant that the four witnesses called by the claimant as experts on the value of suburban land placed an estimate upon the value of the land taken substantially the same as that testified to by the three witnesses who were called by the State to testify to the valuation of the 11 acres as orchard land. To the value of the orchard land taken must be added the value of the remainder of the appropriated land including the forest trees estimated

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at \$362.20 and to the total value of the appropriated land must be added the damages that were occasioned to the remainder of the property. These damages are quite extensive. If the appraisal is to be made upon the basis of suburban land a glance at the map of the entire farm will show that the southerly remaining parcel has a particularly small frontage on the East Henrietta highway and is damaged to a greater extent than the northerly parcel the frontage of which is greater than its length in the rear. Claimant's witnesses as to the value of the property as suburban land made considerable difference in the damages per acre between the south and north parcels. Likewise as a farm the remainder of the property has suffered a depreciation by reason of the appropriation. The two parcels have been separated by the appropriated land and the orchards have been cut diagonally and each parcel has been reduced to a small farm not available for some purposes for which a large farm might be used. The southerly parcel is separated from the buildings and to reach it the claimant is required to go by way of the highway instead of directly as formerly. The integrity of the farm has been interfered with and all these considerations should be taken into account in appraising the damages sustained by the remainder of the property. The evidence upon these damages has been stated separately by five of claimant's witnesses including himself and they range from \$12,000 to \$14,741.75. The three State witnesses who testified to the market value of the property before and after the appropriation did not separate the damages to the remainder of the farm from their estimate of the total compensation but they considered the farm generally as having been depreciated one-half by the act of the State. The remainder of the farm has suffered a depreciation by reason of the appropriation whether we regard what is left as available for suburban development or for farming purposes and this depreciation should be added to the estimate of the value of the land taken. This depreciation to the southerly parcel is estimated at \$150 an acre which would amount to \$3,363.30 for the 22.422 acres and for the northerly parcel at \$100 an acre which would amount to \$2,693.80

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for the 26.938 acres, making the estimate of damages to the remainder of the farm including the item of drains and fences of \$6,957.10. The amount of claimant's compensation may be summarized as follows:

Summary of Compensation.

11 acres at \$1,000 an acre.....	\$11,000 00
1.811 acres at \$200 an acre.....	362 20
22.422 acres at \$150 an acre.....	3 363 30
26.938 acres at \$100 an acre.....	2,693 80
<hr/>	
Total	\$17,419 30

The claimant is therefore entitled to an award of \$17,419.30 with interest from the date of appropriation besides any expense incurred by him in procuring abstract of title.

SWIFT, P. J., and MURRAY, J., concur.

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NEW YORK.*

Claim No. 9749.

1. Where in the course of the construction of the Barge canal natural conditions of soil unexpectedly appear which the contract does not in express terms cover and which render the performance of the contract as planned impossible, and make necessary substantial changes in the nature and cost of the contract, and substantially affect the work remaining under the contract, the law will read into the contract an implied condition when it was made that such a contingency shall terminate the entire contract.

2. Under such circumstances the State is liable for the work actually done at the time of the discovery of the conditions making the performance of the contract impossible, and for material furnished and delivered on the ground but not actually placed in the work; but not for the pro rata share of the premium paid on a surety bond required by the contract, or for loss of profits on work remaining to be done.

3. Where upon the discovery of such conditions the State instead of immediately regarding the contract as terminated issues a so-called stop order

* Judge Rodenbeck's opinion is reported in 125 N. Y. Supp. 46, but not the opinions of Judges Swift and Murray.

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and thereunder the contractor keeps his plant in readiness awaiting the decision of the State, the State is liable for the expense of maintaining the plant during the time during which it might have been used by the contractor.

4. Where an extensive cave-in occurs in the course of a contract involving the banks and bed of a portion of the canal which the contractor under his contract has agreed to keep in a navigable condition, he is not liable for the expense of restoring navigation where there was no negligence in connection with the performance of his work, the terms of the contract not covering such a contingency.

5. Interest is allowable upon the amount of work done and unpaid for and for the material delivered from the time of the termination of the contract on account of impossibility of performance, but not upon the amount of the unliquidated damages arising from the issuance of the stop order.

(Decided September 30, 1910.)

STATEMENT

THIS is a claim for the recovery of moneys alleged to be due under a contract and for prospective profits and other damages growing out of a contract made with the State of New York for the construction of a part of the Barge canal system.

Kellogg & Rose, for claimant.

Edward R. O'Malley, Attorney-General, *D. E. Brong*, *A. E. Tuck* and *M. H. Quirk*, for the State.

RODENBECK, J. The claimant made a contract with the State of New York to construct 3.76 miles of the improved Champlain canal which is a part of the so-called Barge canal system of the State now in progress of construction and while the work was in progress and claimant was excavating for one of the locks, an extensive cave-in occurred which revealed the fact that for the balance of the contract the earth was of a "slippery greasy clay" with not sufficient resistency to permit of the construction, according to the contract, plans and specifications, of the lock and substantially the remainder of the work.

The State issued a stop order while it was investigating and determining what to do under these unexpected conditions and this order remained in force for six months when an alteration

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order which involved extensive changes in the construction of the remainder of the work was submitted by the State to the claimant for the completion of the contract.

The claimant refused to accept these alterations insisting that they constituted a fundamental change in the contract and amounted to a breach of the contract by the State and thereupon the State proceeded to advertise for bids for the completion of the work and let it to other contractors and the claimant filed this claim for the work done and not paid for and for damages including loss of profits on the portion of the work uncompleted amounting in all to \$370,525.41.

The total amount of the contract including previous alteration orders was \$968,296.11 and there was uncompleted at the time that the stop order was issued \$521,954.42 and of this amount \$398,612 was eliminated and new work was added, aggregating \$153,584.50 so that of the work to be done there was a reduction of \$245,027.50 or a decrease of about 25 per cent of the contract price and upon these facts and upon the terms of its contract, the claimant insists that the State violated its contract and justified its course in refusing to complete the contract; while the State claims that the construction of the work when the cave-in occurred revealed the fact that the sub-soil was so treacherous that the lock could not be constructed in that section of claimant's contract at all and made necessary the other changes in the plans and specifications, and also that the alterations were authorized by the contract and that claimant was guilty of a breach of its contract in refusing to complete it as directed by the alteration order.

The claimant had agreed in its contract that it had satisfied itself by its own investigation and research regarding "all the conditions affecting the work" and that its conclusion to execute the contract was based upon such investigation and research and not upon any information prepared by the State Engineer.

If the contention of the claimant is sustained the State will be obliged not only to pay to the claimant the amount of work done and not paid for under the contract and profits which claimant

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estimates at \$210,490.84 besides other damages but to other contractors the profits if any which they will make upon the completion of the work under the reletting; while if the position of the State is upheld that under the clause in the contract reserving to it the right to make necessary alterations in the plans it was authorized to make the changes which it did, the claimant not only loses the profits which it claims but it must pay the State any damages caused by its failure to perform the contract including the increased cost, if any, of completing the work.

The contention of the claimant is based upon the interpretation that it places upon the clause in the contract relating to alterations in the plans and specifications and it insists that the changes proposed by the State were fundamental alterations of the contract and were not contemplated when the contract was made and constituted a breach thereof. This clause provides that the State may make such alterations in the plans and specifications as may be "necessary."

The case, however, does not turn upon the construction of this clause in the contract but rests upon another proposition growing out of the conditions that were found when the attempt was made to construct lock No. 7. When this part of the work was reached a condition of the soil was found which made it impossible to construct the lock as planned and made it impracticable to build it within the limits of the remainder of the contract. When the excavation for the foundation of the lock had been carried to a depth of ten or twelve feet it was found that the underlying stratum was a greasy slippery clay with no grit in it, "just like axle grease" as one witness put it. Claimant's expert said that he had never seen any soil like it and that it would not be good engineering to build a lock in such material at all. Under this condition of things the case falls within that line of decisions where the contract is regarded as at an end and performance is excused because of the failure of conditions the existence of which are necessary to the performance of the contract.

The early rule upon impossibility as an excuse for the performance of a contract was that inability to execute an absolute

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executory contract due to subsequent unforeseen accident or misfortune without the fault of either party, will not excuse performance. (*Paradine v. Jane*, Aleyn, 26.) This rule which was promulgated in English jurisprudence as early as the year 1178 was based upon the ground as stated in this case that "where the party by his own contract creates a duty or charge upon himself, he is bound to make it good, if he may, notwithstanding any accident by inevitable necessity, because he might have provided against it by his contract." By the language of the Constitution of the State of New York, this rule with the remainder of the common law of England and Great Britain became operative in this State subject to such alterations as might be made from time to time. (*State Constitution*, 1777, art. 35.) There are many illustrations of the adoption and application of the rule in this State (*Harmony v. Bingham*, 12 N. Y. 99; *Tompkins v. Dudley*, 25 N. Y. 272; *Wheeler v. Conn. Mut. Life Ins. Co.*, 82 N. Y. 543; *Booth v. Spuyten Duyvil Rolling Mill Co.*, 60 N. Y. 487), but exceptions began to creep in as a strict enforcement of the rule seemed to work out an inequitable result.

In England the rule prevailed in all its severity down to the middle of the last century (*Hall v. Wright*, E. B. & E. (1857)) but since then the courts both here and in England have modified it to a large extent upon the theory that the event which rendered the performance impossible should be implied as a matter of law as one of the conditions of the contract (*Taylor v. Caldwell*, 3 B. & S. 824 (1863); *Bailey v. De Crespigny*, L. R. 4 Q. B. 185) thus carrying out the supposed intention of the parties and placing such contingencies as excuse performance upon the same basis as an act of God which Pollock defines as: "An event which as between the parties and for the purpose of the matter in hand, cannot be definitely foreseen or controlled." (*Pollock on Contracts*, 3d ed. p. 535.) These exceptions have been growing so that now there are at least four well recognized modifications of the early rule, while the courts seem to be groping for a rule broad enough to include all of the exceptions.

Three of these exceptions have long since been firmly estab-

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lished in the jurisprudence not only of this country but of England and the fourth has been adopted in many cases of recent date in this State where the existing rules did not equitably meet the peculiar facts.

The rule that performance is excused where legal impossibility arises from a change in the law or where the specific thing which is essential to performance is destroyed or where there is an incapacity by sickness or death in the case of a contract for personal services, are of long standing but quite recently a fourth and broader rule has grown up which is applicable to the case at bar.

One writer in the *Columbia Law Review* in discussing the tendency toward a broader rule to meet cases of impossibility in the performance of contracts says:

“If the contingency which makes the contract impossible of performance is such that the parties to the contract, had they actually contemplated it, would probably have regarded it as so obviously terminating the obligation as not to require expression, failure of performance should be excused.” (Vol. 1, p. 533.)

Another writer in the *Harvard Law Review* criticising the proposed rule suggests another:

“A proper rule, it is suggested, is that impossibility should be recognized as a defence wherever it seems reasonable that, had the contingency which renders performance impossible been contemplated by the parties, they would have both agreed, that its introduction into the contract, as a condition terminating the obligation, would be just.” (Vol. 15, p. 419.)

A third writer in the same Review, after referring to the general rule and its exceptions, says:

“The New York court, however, has of late been more liberal, and in a somewhat indefinite way has laid down the doctrine that impossibility is an excuse when caused by the non-continuance either of the subject-matter of the contract or of the conditions essential to its performance.” (Vol. 15, p. 63.)

There is abundant warrant in the decided cases in this State for these attempts to state the broad rule that the courts are now following in relation to this subject and to justify the statement that the “modern tendency seems to be toward a more lenient

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construction. More regard is paid to what must have been the intention of the parties." (*American Law Register*, 1909, p. 570.)

In *Stewart v. Stone*, 127 N. Y. 500, the factory at which milk delivered by plaintiff and his assignor was to be manufactured into cheese and butter, burned and with it a quantity of butter and cheese and some milk which had not been converted into cheese and butter. Judge Bradley says in the course of his opinion:

"It is true that where an absolute executory contract is made, the contractor is not excused by inability to execute it caused by unforeseen accident or misfortune, but must perform or pay damages unless he has protected himself against such contingency by stipulation in the contract. (*Harmony v. Bingham*, 12 N. Y. 99; *Thompkins v. Dudley*, 25 id. 272; *Wheeler v. Conn. Mut. L. Ins. Co.*, 82 id. 543.) But there may be in the nature of a contract an implied condition by which he will be relieved from such unqualified obligation, and when, in such case, without his fault, performance is rendered impossible, it may be excused. That is so when it inherently appears by it to have been known to the parties to the contract, and contemplated by them when it was made, that its fulfillment would be dependent upon the continuance or existence at the time for performance, of certain things or conditions essential to its execution. Then in the event they cease, before default, to exist or continue, and thereby performance becomes impossible without his fault, the contractor is, by force of the implied condition to which his contract is subject, relieved from liability for the consequences of his failure to perform. (*People v. Bartlett*, 3 Hill 570; *Dexter v. Norton*, 47 N. Y. 62; *Booth v. S. D. R. Mill Co.*, 60 id. 491; *Taylor v. Caldwell*, 3 B. & S. 826)". (p. 507.)

In *Lorillard v. Clyde*, 142 N. Y. 456, the defendant was relieved from paying dividends, which he had agreed to do, because the corporation, out of whose earnings they were to come, had been involuntarily dissolved. Chief Judge Andrews says in his opinion:

"The general doctrine that when a party voluntarily undertakes to do a thing, without qualification, performance is not excused because by inevitable accident or other contingency not foreseen, it becomes impossible for him to do the act or thing which he agreed to do, is well settled. This doctrine protects the integrity of contracts, and one of the reasons assigned in its support in the early case of *Paradine v. Jane* (Aleyn Rep. 26) is that as against such contingencies the party could have provided by his contract. (See *Harmony v. Bingham*, 12 N. Y. 99; *Ford v. Cotesworth*, L. R. (4 Q. B.) 134;

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Jones v. U. S., 96 U. S. 24.) But it is now well settled that when performance depends on the continued existence of a given person or thing, and such continued existence was assumed as the basis of the agreement, the death of the person or the destruction of the thing puts an end to the obligation. Executory contracts for personal services, for the sale of specific chattels, or for the use of a building, are held to fall within this principle. (*Dexter v. Norton*, 47 N. Y. 62; *People v. Globe Mutual Ins. Co.*, 91 id. 174; *Taylor v. Caldwell*, 113 Eng. C. L. 826.) These cases are not exceptions to the rule that contracts voluntarily made are to be enforced, but the courts in accordance with the manifest intention construe the contract as subject to an implied condition that the person or thing shall be in existence when the time of performance arrives. So, if after a contract is made the law interferes and makes subsequent performance impossible, the party is held to be excused. (*Jones v. Judd*, 4 N. Y. 412.)

“It must be conceded that it is difficult to draw the line and to determine the exact limitations of the principle. When the executory contract relates to specific chattels, and the subject-matter is destroyed without fault of the party, the implied condition arises and excuses performance. But where the contract is based on the assumed existence and continuance of a certain condition, or upon the continuance of a subject-matter which, however, is not the direct object of the contract, is the principle in such cases excluded? The present case illustrates what we have in mind. The contract in question was not with the corporation whose life was extinguished by the judgment of dissolution. But the guaranty assumed that the corporation would continue in existence during the seven years period. The liability which the defendants assumed was in consideration of the benefits which might accrue to them from the management of the transportation business of the corporation during that period. Upon the assumption that the death of the corporation was brought about without their fault, were they thereafter bound? Is the doctrine of implied condition less applicable than it would be if the contract had been between the defendants and the corporation? If in the one case the contract, so far as it was unexecuted, would be terminated, did not the happening of the same event terminate the engagement of these parties, based on the assumed continuance of the corporation in life?” (p. 462.)

In *Dolan v. Rodgers*, 149 N. Y. 489, the event which rendered further performance of the contract impossible was the interference of a railroad company for whom the defendants were constructing a road under a contract under which they had sublet a part of the work to the plaintiff in violation of a clause in the contract forbidding subletting without consent. In his opinion Judge Vann says:

“There are many cases holding that the continued existence of the means of performance, or of the subject-matter to which the contract relates, is an implied condition, and the rule seems to rest on the presumption that the

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parties necessarily intended an exception, and, as said in *Dexter v. Norton* (47 N. Y. 62) it operates 'to carry out the intention of the parties under most circumstances, and is more just than the contrary rule' (p. 66). (*Tone v. Doelger*, 6 Rob. 251, 256; *Walker v. Tucker*, 70 Ill. 527; *Thomas v. Knowles*, 128 Mass. 22; *Field v. Brackett*, 56 Me. 121; *Scully v. Kirkpatrick*, 79 Pa. St. 324, 332; *Shear v. Wright*, 60 Mich. 159; *Howell v. Coupland*, L. R. (1 Q. B. D.) 258; *Robinson v. Davidson*, 40 L. J. Ex. 172; *Appleby v. Myers*, 36 L. J. C. P. 331, 336.)

The effect of the rule is to excuse both parties from further performance of the contract without giving to either the right to recover damages for the part not performed. (*Id.*) In England the rule seems to go no farther in its effect than to relieve both parties from any obligation under an entire contract, with reference either to the future or the past. In this country, however, there may be a pro rata recovery for part performance by the one party, at least where what has been done is of benefit to the other. (*Jones v. Judd*, 4 N. Y. 412; *Cleary v. Schier*, 120 Mass. 210; *Butterfield v. Byron*, 153 Mass. 517; *Cook v. McCabe*, 53 Wis. 250, 258; *Schwartz v. Saunders*, 46 Ill. 18; *Hollis v. Chapman*, 36 Tex. 1; *Niblo v. Binsse*, 1 Keyes, 476.)" (p. 493.)

In *Herter v. Mullen*, 159 N. Y. 28, the defendant was relieved from liability for a year's rent by reason of holding over after the expiration of his term on account of the sickness of a member of his family. Judge O'Brien says:

"Legal rules may sometimes be pushed to a point where they accomplish the grossest injustice, and it then becomes the duty of the courts to limit their application to cases that are within their true scope and fair meaning." (p. 40.)

In *Buffalo and Lancaster Land Co. v. Bellevue, L. & I. Co.*, 165 N. Y. 247, the plaintiff failed to secure relief for an alleged breach of a contract for the construction of an electric road under which the defendant had agreed to operate cars certain hours each day, and was prevented from doing so on certain days in the winter by storms of unusual severity. In the course of his opinion Judge O'Brien says:

"It is a well-settled rule of law that where a party by his own contract absolutely engages to do an act, it is his own fault and folly that he did not thereby provide against contingencies and exempt himself from responsibility in certain events. In such cases performance is not excused by inevitable accident, or other contingency, although not foreseen, or under the control of the party. When the contract is absolute the vis major is not an excuse for non-performance. (*Ward v. H. R. B. Co.*, 125 N. Y. 230; *Harmony v. Bing-*

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ham, 12 N. Y. 99.) But there are many contracts from which by their very nature a condition may be implied that a party will be relieved from the consequences of non-performance in some slight particular, where the obligation is qualified, or when performance is rendered impossible without his fault, and we think the contract in question belonged to that class. (*Stewart v. Stone*, 127 N. Y. 500; *Dexter v. Norton*, 47 N. Y. 62; *Worth v. Edmonds*, 52 Barb. 40; *Lorillard v. Clyde*, 142 N. Y. 456; *Taylor v. Caldwell*, 113 Eng. Com. Law. 826; *C., M. & S. P. Ry. Co. v. Hoyt*, 148 U. S. 1; *Clifford v. Watts*, L. R. (5 C. P.) 557.)" (p. 254.)

In *Labaree Co. v. Crossman*, 100 A. D. 499, the impossibility of performance arose from an order of the board of health of the city of New York prohibiting the landing of a cargo of coffee. The court, adopting the opinion of the referee who tried the case, says:

"In my opinion the doctrine of implied condition is applicable to the case and the parties must be deemed to have contracted upon the condition that there would be no legal interference with the admission of the coffee to the storehouses of the city, or rather that, if performance was rendered impossible by the act of law, the contract would be dissolved." (p. 504.)

In *Whipple v. Lyons Beet Sugar Refining Co.*, 64 Misc. 363, the impossibility of performance arose from drought and other climatic conditions which prevented the defendant from carrying out a contract to grow a certain number of acres of beets for a sugar company according to certain printed instructions. Judge Pound says:

"The reasonable inference is that it was the performance of these conditions, only, that the parties had in mind when the stipulation for liquidated damages was made, and that the contract is one for a crop to be raised according to defendant's specific instructions and is subject to the implied condition that, if the seeds planted failed to grow on a portion of the land selected in accordance with such instructions by reason of drought or other climatic conditions over which the plaintiff had no control, performance would be excused." (p. 365.)

From these cases it will be seen that a fourth exception must be made to the general rule that accident or an unforeseen contingency arising without the fault of either party will not excuse performance of an absolute executory contract, and the four

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exceptions may now be stated broadly as follows: First. Where the legal impossibility arises from a change in the law. (*Jones v. Judd*, 4 N. Y. 411; *Heine v. Meyer*, 61 N. Y. 171; *Labaree Co. v. Crossman*, 100 A. D. 499; *People v. Bartlett*, 3 Hill 570; *Hildreth v. Buell*, 18 Barb. 107.) Second. Where the specific thing which is essential to the performance of the contract is destroyed. (*Dexter v. Norton*, 47 N. Y. 62; *People v. Globe Mut. L. Ins. Co.*, 91 N. Y. 174; *Lorillard v. Clyde*, 142 N. Y. 456; *Hayes v. Gross*, 9 A. D. 12.) Third. Where by sickness or death personal services become impossible (*Wolfe v. Howes*, 20 N. Y. 197; *Clark v. Gilbert*, 26 N. Y. 279; *Spaulding v. Rosa*, 71 N. Y. 40; *Gaynor v. Jonas*, 104 A. D. 35; *Matter of Daly*, 58 A. D. 49), and Fourth. Where conditions essential to performance do not exist. (*Stewart v. Stone*, 127 N. Y. 500; *Dolan v. Rodgers*, 149 N. Y. 489; *Buffalo & Lancaster Land Co. v. Bellevue L. & I. Co.*, 165 N. Y. 247; *Whipple v. Lyons Beet Sugar Refining Co.*, 64 Misc. 363.)

From these considerations the rule may be deduced fairly in the present case, that where in the course of the construction of a canal, natural conditions of soil unexpectedly appear, which contingency the contract does not in express terms cover and which render the performance of the contract as planned impossible and make necessary substantial changes in the nature and cost of the contract and substantially affect the work remaining under the contract, the law will read into the contract an implied condition when it was made that such a contingency will terminate the entire contract.

These terms are implied in the contract by force of the law itself and not because the parties had them in mind, whether we approve of their insertion upon the theory that had the attention of the parties been called to the conditions giving rise to the application of the rule, they would have omitted any reference to them because obviously covered by the law (*Columbia Law Review*, vol. 1, p. 533), or upon the theory that they would have regarded them as just provisions to have inserted. (*Harvard Law Review*, vol. 15, p. 419.)

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In the eyes of the law, being a part of the terms of the contract, the conditions that rendered performance impossible do not terminate the contract *ab initio* and vitiate what has been done and what remains to be done that is capable of execution. The conditions may be of such an extent as to amount to a substantial abrogation of the entire contract or they may relate to an insignificant part of the contract, but they excuse performance only to the extent to which performance is impossible and leave what has been done valid, permitting a recovery therefor, and may not excuse performance of the remaining work. No general rule can be laid down which will apply to all cases, but each case must be decided upon its own facts and that this course can be taken and justice done according to the facts in each case unhampered by written rules is due to the great flexibility of the common law which is its chief merit.

Applying this rule to the case at bar it will be seen to work out an equitable result. The State was not in a position to compel performance of an impossibility and likewise the claimant could not ask the State to proceed with the contract. It would not have been fair of the State to insist upon the literal performance of its contract and place the loss upon the claimant for the failure to perform nor would it have been just for the claimant to insist that the State must carry out its contract as planned or suffer the penalty of paying damages including prospective profits for the breach of the contract. It is better to regard the contract as at an end and treat both parties as having been excused from further performance, allowing the claimant to recover for work done and for benefits received by the State under the contract down to the time of the discovery of the conditions which rendered performance impossible, and for such damages as may have resulted to it from the stop order issued by the State. Both of the parties were in the same situation at the time that the conditions were discovered and the rule applied leaves both of them to share the responsibilities for these conditions which were not anticipated when the contract was made, thus carrying out the spirit of the State Constitution which provides that if, for any

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unforeseen cause, the terms of any contract prove to be unjust and oppressive the canal board may, upon the application of the contractor, cancel the contract. (State Constitution, art. 7, § 9.)

The State, therefore, had the right to relet the completion of the work, but must bear the increased expense resulting therefrom while the claimant is not entitled to recover for any prospective profits on the work remaining to be done. (*Rhodes v. Hines*, 79 A. D. 379; *Snyder v. City of New York*, 74 A. D. 421; *Sickles v. United States*, 1 Ct. Claims 214.)

The claimant is not entitled to recover the premium on its surety bond as that is part of the expense of doing the work which would be considered in determining the profits to which the claimant would be entitled had the State been guilty of a breach of its contract. It does not differ from other items of expense for which the claimant cannot recover, such as the purchase of its plant for the performance of the contract. (*Beckwith v. City of New York*, 121 A. D. 464.)

The claimant is not entitled to recover for the cost of the one on three slope order involving a change in the tracks of the Delaware & Hudson Railroad, since that work was covered by the terms of its contract and would have been required irrespective of the one on three slope order.

The State is not entitled to recover upon its alleged counter-claim, a construction which the State itself placed upon the contract when it paid for restoring navigation on the Champlain canal after the previous cave-in.

The claimant is entitled to recover the amount of work done and unpaid for at the time that the cave-in occurred, amounting to \$41,718.63. This amount is somewhat less than that submitted by the claimant and is the amount conceded by the State having been made up from actual measurements by the State in the usual way that previous estimates and payments under the contract had been made.

The claimant is entitled to recover for material on hand and delivered on the work at the time that the termination of the contract occurred. This material, although not actually put in place

Opinion by Rodenbeck, J.

in constructed work, occupied the same position under the contract as such material, since it was delivered and ready for use. The amount allowed for foundation piles delivered is \$8,741.40; for sheet piling delivered made up \$5,214.76; for sheet piling delivered not made up \$579.84. These several amounts are taken rather than the amounts shown upon the trial by the claimant, because they were testified to by State witnesses from actual count on the ground. There should also be allowed for material on hand \$4,760.33 claimed by the claimant and conceded by the State, and for fillet on hand \$129.20, a slight reduction from the amount claimed. The sum of these items of material delivered is \$19,425.53.

The claimant is also entitled to recover for two small items, one for derrick delay damages and another for pile driver damages, amounting together to \$253.80, the amount claimed by the claimant, and conceded by the State.

The claimant is also entitled to recover for damages resulting from the stop order issued by the State. The liability of the State is placed upon the ground that instead of acting upon the conditions as they arose and treating the contract as terminated at that time, the State issued an order requiring the claimant to maintain its plant in idleness for a period of six months. The claimant is not entitled to all of the damages claimed under this head. An allowance for rental of plant is made for 151 days at \$50 a day, amounting to \$7,550, as against \$9,200 claimed by the claimant, which latter amount includes an allowance for the entire six months, including Sundays and holidays which should be deducted. The item for team work, amounting to \$6,277, is disallowed on the ground that no team work could have been done during the period covered by the stop order and because the teams had gone into winter quarters. In place of the allowance of \$5,454.68 for superintendence, \$1,731.29 is allowed which is the amount which was shown by the bonds of the claimant to be the actual cost of superintendence to the claimant. The sum of these items for damages resulting from the stop order is \$9,281.29.

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A summary of the disallowances is as follows:

Summary of Disallowances

Profits	\$210,490 84
Premium bond	3,836 70
One on three slope order.....	727 47
State's counterclaim	13,280 01
	<hr/>
Total	\$228,335 02
	<hr/> <hr/>

A summary of allowances made to the claimant is as follows:

Summary of Allowances

Due on contract.....	\$41,718 63
Material delivered	19,425 53
Derrick damages	108 80
Pile-driver damages	145 00
Stop-order damages	9,281 29
	<hr/>
Total	\$70,679 25
	<hr/> <hr/>

The claimant is entitled to recover interest on the amount due on the contract and material delivered amounting to \$61,144.16, but is not entitled to interest on the unliquidated damages amounting to \$9,535.09. (*Sweeney v. City of New York*, 173 N. Y. 414.)

The claimant should have judgment for \$70,679.25, with interest on \$61,144.16 from December 15, 1908.

Judgment entered accordingly.*

SWIFT, P. J. (concurring). On the 23d day of November, 1906, the claimant entered into a contract with the State of New York for the construction of three and seventy-six one hundredths (3.76/100) miles of the Barge canal, extending from *Dunham's* basin to the Hudson river near Fort Edward. The contract provided for the construction of Locks Nos. 7 and 8, and the Junction Lock, necessary spillways, power plants and appertaining

* See note on page 365.

Concurring Opinion by Swift, P. J.

structures, concrete arch bridges, bridge substructures and approaches, retaining walls, etc., as well as the excavation of the prism of the canal. This contract was designated as No. 27, and called for an expenditure of \$968,296.11. The claimant is a foreign corporation organized under the Laws of the State of Indiana; it has complied with the statutes so that it is authorized to do business in the State of New York, and has complied with all statutory requirements necessary to give this court jurisdiction, and the claim was legally filed.

Work under this contract was commenced on the 24th day of May, 1907. During the progress of the work provided for by this contract several alterations were made in the details of the work which were agreed upon by the claimant and the State.

Alteration No. 1, December 20, 1907, for distributing spoil material on both sides of the canal.

Alteration No. 3, January 30, 1908, providing for a change in gate hoists.

Alteration No. 4, June 22, 1908, changing form of lock gate recesses.

Alteration No. 5, July 1, 1908, constructing two ditches.

The State sought to make an alteration which was specified as No. 2. Upon the trial of this case the proposed Alteration No. 2, dated December 16, 1907, eliminated sheet pile revertment, changed plans for bridge abutment at Lock No. 7, eliminated ditch on each side of canal and eliminated provision for peeling piles. The claimant refused to accept this alteration, or to make any contract in relation thereto.

In addition to the alteration orders given by the State Engineer, there were several small extra work orders given which were performed by the claimant.

It appears from the evidence that the total amount of work actually performed at the contract prices and for which claimant has not been paid amounts to \$41,718.63.

Work was progressing on this contract, when on November 6, 1908, quite a large portion of the bank of the old canal caved into the excavation being made for the Barge canal. At that time the new excavation was being made upon a slope of

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one to one, this slope was changed by the State Engineer to three to one, and the excavation was continued at that slope, and on December 15, 1908, there was a second and much larger cave-in or slide of the bank of the old canal, extending from the center of the old canal to the new excavation, a distance of about ninety (90) feet, and being some five to six hundred feet in length.

This cave-in nearly filled the excavation being made for Lock No. 7 of the Barge canal. At that time the claimant was excavating for the foundation of Lock No. 7. The original plan provided for an excavation to the depth of twenty-five (25) feet. The material in which the excavation was then being made was composed of a soft sticky clay described by witnesses as having the consistency of axle grease, and tests made in this material showed that it extended down to the rock, a distance of forty (40) feet. After this second cave-in it was found that a lock could not be constructed at that point under the existing plans, and on December 24, 1908, the State delivered to the claimant the following order:

“We have under consideration the matter of changing of location of Lock No. 7, which may be thrown either to the north or south, which might affect the plans of all work south of Station 1217, and hereby direct you to discontinue all work south of Station 1217 until such time as we have new plans perfected.”

At the time this stop order was given there was work yet to be done on that portion of the contract north of Station 1217, which at contract prices amounted to a little over \$192,000, consisting of rock excavation, trimming slopes and making of embankments and concrete structures. This stop order of December 24, 1908, was not rescinded until June 24, 1909, when the so-called Alteration Order No. 7 was given to claimant. During all this time claimant had performed no work on any part of the contract, and had kept its plant and teams, and a part of its force idle, claiming it was waiting for the new plan for the construction of Lock No. 7. On June 24, 1909, Alteration No. 7 was served on the claimant.

Concurring Opinion by Swift, P. J.

Alteration No. 7 eliminated entirely the construction of Lock No. 7. The grade of the prism of the canal was changed to be of the same grade as that north of Lock No. 7, reducing the amount of excavation and eliminating approaches and reducing the amount of work to be done by the contractor.

The total amount of work at contract prices elim-

inated by Order No. 7 was.....	\$398,612 00
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New work was introduced amounting to.....	153,584 40
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Making the decrease in the amount of work....	\$245,027 60
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Upon the receipt of Alteration Order No. 7, the claimant addressed a letter to all the State authorities in connection with the construction of the Barge canal, of which the following is a copy:

"We are in receipt of a letter from Mr. William B. Landreth, Special Deputy State Engineer, dated June 24th, making certain fundamental changes in the plan covering the work embraced in our contract No. 27, and also eliminating therefrom and taking from us large portions thereof. We hereby notify you that we decline to comply with said order, and as we have been verbally informed by those in authority that the same will be insisted upon, we hereby notify you that we elect to treat the said order and insistence thereon as in violation of the terms of said contract, and as breach thereof. We shall accordingly cease all work under said contract, and shall hold the State of New York and its officers liable for all damages occasioned by the said action on the part of the State, and the breach of said contract above referred to, as well as all other breaches in connection therewith."

Claimant performed no work on said contract after the stop order of December, 1908, and abandoned the contract, and has filed a claim in this court to recover damages in the sum of \$348,414.48.

The original contract contained a provision as follows:

"It is mutually agreed that the State reserves the right until the final completion and acceptance of the work to make such additions to or deductions from such work, or changes in the plans and specifications covering the work, *as may be necessary*, and the contract shall not be invalidated thereby, and no claim shall be made by the contractor for any loss of profits because of any such change, or by reason of any variation between the quantities of the approximate estimate, and the quantities of work to be done."

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I am of the opinion that it is unnecessary in the decision of this case to pass upon the validity or construction of the terms of the contract relating to the power reserved in the State to make alterations in the work.

The caving in or slide of this immense body of earth into the excavation for the new canal before referred to made it absolutely impossible to construct Lock No. 7 and perform the contract as contemplated and provided for in the original contract. It seems to be conceded by all parties that the construction of Lock No. 7 as provided for in the contract was impracticable. It was absolutely necessary that some new plan should be made. This is the opinion of William R. Hill, a capable and practical engineer, who was at that time Special Deputy State Engineer, and was called as a witness by the claimant in this case, and he testified that after such cave-in and his examination he knew that a change in the original plans had to be made.

I am of the opinion that a just and equitable solution in this case is that this accident, for which neither party seems to have been at fault, was such a destruction of conditions existing at the time the contract was entered into rendering it impossible of performance that it terminated the contract as between the parties and was not a violation of the terms of the contract by either the claimant or the state. The courts in recent decisions seem to have given a broader and more liberal construction in the enforcement of the terms and conditions of contracts, and hold that where the conditions existing at the time a contract is made and where the execution of the contract depends upon the continuance of such conditions and where without fault of either party those conditions by some unforeseen contingency are changed or destroyed, so that it is practically impossible to perform the contract as originally made, it is an excuse for performance. I think that is the proper disposition to be made of this case and that both parties to this contract were relieved from the full performance thereof by the condition found to exist after this cave-in or slide occurred, although it is true that neither the contractor nor the State seems to proceed upon this theory.

Concurring Opinion by Swift, P. J.

A claim has been made by the claimant for damages for delay and I am of the opinion that claimant is entitled to recover some damage by reason thereof. If the State had not given its stop order of December 24, 1908, and had taken the position that this accident prevented the fulfillment of the conditions of the contract and was in fact the termination of the original contract as between the parties I do not believe the State would have been liable for any damages by reason of delay, but it is true that the State issued a stop order of that date, which order contained the provision that claimants were directed to "discontinue all work south of Station 1217 until such time as we have new plans perfected."

The claimant alleges and proves that it kept its plant and a large number of men and teams ready to resume work after plans were perfected, and it was not treated as an absolute end of the contract and I think that under the wording of the stop order the claimant was justified in keeping its plant and teams ready to resume work, but that the amount claimed by the claimant for damages for delay is excessive. Upon a careful consideration of the evidence I believe that the claimant should be allowed for use of dredge and some damage for the maintenance force of its plant. At the time the stop order was given there was on hand a large amount of materials, foundation piles, sheet piling, etc., which had been purchased by the claimant upon the order of the State for use upon this work. If the contract is treated at an end by reason of this unforeseen contingency I am of the opinion that the claimants are entitled to recover the amount paid by them for materials furnished and on hand at the time the stop order was given.

The claimants contend that the giving of the stop order of December 24, 1908 was a *wrongful act* on the part of the State and a breach of its contract with claimants. I am of the opinion that it was not a wrongful act nor a breach of its contract.

Claimants ask as a part of their damage the unearned premium upon the surety bond given to secure the faithful performance

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of the contract upon its part. I am of the opinion that claimants cannot recover therefor.

Upon the trial the State was permitted to plead a counter-claim of \$13,000, being the amount which it was claimed it had expended in repairing the old canal, the bank of which had been destroyed by the slide or cave-in of December 15, 1908. I am of the opinion that the State cannot recover on this counter-claim. The claimant was performing the work under the plans as furnished by the State; there is no proof that the bank of the old canal was injured through any negligence upon the part of the claimants. The injury was due to the unforeseen conditions of the sub-soil of clay without fault on the part of the claimants. The cost of repairs has never been audited by the Canal Board, or fixed by it, and cannot be available as a counter-claim in this action.

Upon all of the circumstances and evidence given in this case I believe that a just and equitable disposition thereof is to award damages to the claimants for the following items:

Work performed and unpaid for.....	\$41,718 63
Material on hand.....	4,760 33
Fillet on hand.....	129 20
Foundation Piles delivered.....	8,741 40
Sheet Piling delivered and made up.....	5,214 76
Sheet Piling not made up.....	579 84
Delay of Pile Driver and driving extra piles...	145 00
Injury to Derrick.....	108 80
Rental of Dredge.....	7,550 00
For maintenance of men, plant, etc.....	1,731 29

Total	<u>\$70,679 25</u>
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Claimant should be allowed interest on said award except for the unliquidated damages — he should receive interest on \$61,144.16 from the 24th day of June, 1909, to be included in the judgment herein.*

* See note on page 365.

Opinion by Murray, J.

MURRAY, J. The above claim is filed by the Kinzer Construction Company to recover from the State of New York the sum of \$370,525.41, upon two alleged causes of action which are as follows:

. *First:* Damages suffered by the State's preventing the claimant's performance of a contract, made between the State of New York and the Kinzer Construction Company, for the improvement of the Erie, Oswego and Champlain canals and covering:

(a) The value of the work done and the materials furnished.

(b) The amount of profits which claimant estimates it would have received for the work remaining to be done at the time of the alleged breach of the contract.

The claim under this alleged cause of action amounts to the sum of \$348,414.48.

Second: The loss, damage and increased expenses between December 24, 1908, and July 1, 1909, which it is alleged the act of the State of New York caused the claimant by preventing it from doing any work under its contract between said dates, and requiring the claimant to hold the company and its employees to be in constant readiness to commence work at any time upon the rescission of the stop order hereinafter referred to.

For this alleged cause of action the claimant asks \$22,110.93.

During the trial the State was permitted to file a counterclaim or set-off for \$13,280.01 for work done by the State in building an embankment to take the place of one in the Champlain canal which caved in during the progress of the work being done by the claimant under its contract with the State.

The claimant is a foreign corporation organized under the laws of the State of Indiana. It obtained the necessary authority to do business with the State. It paid the initial license fee, and all taxes on the amount of capital employed herein, and thereby became duly authorized and empowered to carry on and do business within the State of New York.

On or about the 23rd day of November, 1906, the State of New York through its then Superintendent of Public Works made and entered into a contract with the claimant herein, for

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the building and construction of about 3.76 miles of the improved Champlain canal near Fort Edward in the State of New York, for the sum of \$972,210. This contract is known as contract No. 27 and required the following work to be done: excavating the canal and protecting its sides; constructing Locks Nos. 7 and 8 and Junction Lock; necessary spillways, power plants and appertaining structures; a concrete arch bridge, substructures and approaches; retaining walls, highways and other incidental details, between station 1046+16, the south end of contract No. 25 at Dunhams Basin Road and the Hudson river at Fort Edward station 1245.

The contract under the heading "Information for Proposers" contains the following:

"The estimates of quantities are to be accepted as approximate only, proposers being required to form their own judgment as to quantities and *character of the work by personal examination on the ground where the work is proposed to be done*; and on the specifications and drawings relating thereto, or by such other means as they shall choose.

"The attention of persons intending to make proposals is specially called to paragraph eleven of the form of contract, which debars a contractor from pleading misunderstanding or deception because of estimates of quantities, character, location or other information exhibited by the State."

The "Itemized Proposal" contains the following paragraph:

"The undersigned also declare that they have carefully examined the annexed form of contract and specifications and the drawings therein referred to, and will provide all the necessary machinery * * * and other means for construction, and do all the work and furnish all the materials called for by said contract and specifications and the requirements under them of the State Engineer for the following sums, to wit:" making a total of \$972,210, and that the contractor would commence work on or before December 30, 1906, and complete it on or before December 30, 1909, in accordance with the terms of the contract.

The contract itself provides:

* * * "The contractor covenants and agrees to furnish all work, labor and services and materials of every kind, and to do and perform each and every thing necessary or proper for the improvement of the Champlain canal between the south end of contract No. 25 at Dunhams Basin Road and the Hudson River at Fort Edward, in accordance with the plans and specifications for said work hereto annexed and forming a part hereof, and to fully complete said improvement in accordance with the true intent and meaning of said plans and specifications without any further, other, or different expense

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of any nature whatsoever to the State, excepting the consideration to be paid therefor by the State, as hereafter more particularly mentioned.

“ 1. It being understood and agreed that the contractor shall make said improvements and conduct the work in accordance with all the laws of the State of New York * * * and with the *lawful directions of the officers, agents or representatives of the said State.*

“ 7. It is mutually agreed that the State *reserves the right* until the final completion and acceptance of the work, to make such additions to or deductions from such work or *changes in the plans and specifications covering the work, as may be necessary*, and the contract shall not be invalidated thereby, and *no claim shall be made by the contractor for any loss of profits because of any such change*, or by reason of any variation between the quantities of the approximate estimate and the quantities of the work as done.

“ 11. The contractor agrees that he has satisfied himself by his own investigation and research regarding all the conditions affecting the work to be done and labor and material needed, and that his conclusion to execute this contract is based on such investigation and research, and not on the estimate of the quantities or other information prepared by the State Engineer, and that he shall make no claim against the State because any of the estimates, tests or representations of any kind affecting the work made by any officer or agent of the State may prove to be in any respect erroneous.

“ 12. It is further mutually agreed that if, in the judgment of the State Engineer, the work is not being performed according to the contract, or for the best interest of the State, he shall so certify to the Canal Board and the Canal Board shall thereupon have power to suspend or stop the work under this contract while it is in progress, etc.

“ 18. The work shall be conducted so as not to interfere with the navigation of the present canal and the safety of such banks and structures as may be required for that purpose between May 15 and November 15 of each year, during the progress of the work. Such precautionary measures as may be necessary and in addition such as may be prescribed by the Superintendent of Public Works to guard against the interruption or injury to navigation shall be taken and observed by the contractor at his own expense. Should the contractor fail to promptly carry out such precautionary measures, the Superintendent of Public Works may employ men, procure material and perform such operations as may be necessary in taking such measures. The expenses thus incurred by the Superintendent of Public Works shall be audited by the Canal Board, and the amount as thus fixed shall be conclusive upon the parties and payable by the contractor to the State. The Superintendent may also deduct this amount from any moneys due the contractor under the contract.

“ 23. The contractor agrees to indemnify the State from any claim which may be made that injury resulted from any wrong, negligence or want of care or skill on the part of the contractor, his agents or servants.

“ 24. The contractor further agrees that all damages of whatever nature resulting from the work, or resulting to the work during its progress from whatever cause shall be borne and sustained by the contractor, that all work

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shall be solely at the contractor's risk until it has been finally inspected and accepted by the State Engineer and Superintendent of Public Works" and the approval of such work should not operate as an acceptance or waiver of any deficiency until one year after such approval, etc.

The claimant began the performance of his contract by the assembling of the plant in April, 1907, and commenced the construction work on May 24, 1907. After this time the work seems to have progressed satisfactorily to the parties hereto until the month of November, 1907. During this period several alteration and extra and unspecified work orders were issued under the provisions of the contract by the State to the claimant.

About November 6, 1908, while the claimant was excavating to a one on one slope by means of a hydraulic dredge for the site of Lock No. 7, a slide of earth occurred on the east side of the new cut and towards the old Champlain canal. When the slide occurred the contractor gave notification to the Deputy State Engineer and asked for instructions.

About the 11th day of November, 1908, the then Special Deputy State Engineer gave direction for a flattening of the slope to a three horizontal to one vertical or a slope or grade of 3 to 1. Under these instructions from the State Engineer, the contractor continued the excavation to this slope until December 15, 1908, when a second break, slide or cave-in in the canal occurred on the east slope of the lock site, taking away several hundred feet of the towpath of the old Champlain canal and extending nearly half way into the canal itself.

It is conceded that this slide or cave-in occurred during the period of closed navigation of the canal. When this earth slide or cave-in happened the excavation for the foundation of this Lock No. 7, had been carried to a depth of some 10 or 12 feet, and it was then found that the underlying stratum was of a greasy soft clay with no grit in it. It was described as being "just like axle grease." It was unstable, unfit and unsuitable for the foundation of a lock. It was testified that it would not have been good engineering to construct the lock in such material, and consequently that the lock could not have been, or should not be built

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under the plans as drawn and that there would have to be changes made in the plans to meet this unforeseen and unexpected emergency. That these changes would involve different items of material and labor than those embraced in the original plans.

On December 24, 1908, the Special Deputy State Engineer sent a letter to the contractor which said:

“ We have under consideration the matter of changing location of Lock No. 7, which may be thrown either to the north or south, which might affect the plans of all work south of Station 1217 * * * and hereby direct you to discontinue all work south of Station 1217 until such time as we have new plans perfected.”

This letter is the so-called stop order before mentioned, and by its language discontinued all work south of Station No. 1217, pending the preparation and adoption of new plans to meet the situation which had been developed by the cave-in. The order, it is claimed, was canceled June 24, 1909. But during this time it is admitted the contractor did no work either north or south of this Station No. 1217.

Under the provisions of paragraph 18 of the contract above quoted, the Superintendent of Public Works on the 9th day of April, 1909, by letter directed the claimant to place the Champlain canal in a navigable condition. On April 19, 1909, the contractor answered this letter protesting against the claim of the State that it was required by the contract to place the canal in a navigable condition and declined to repair it where the cave-in occurred on December 15th.

Upon such refusal of the contractor the Superintendent of Public Works proceeded to make the repairs, and did the work necessary to render the canal navigable before the opening of navigation on the canal on May 15, 1909, at a cost of \$13,280.31.

On December 3, 1908, the contractor wrote to Mr. Payne, the engineer, asking for stakes and stating they had been delayed from November in the performance of their work. On December 8th a reply was received to this letter from Mr. S. W. Belding enclosing a copy of a letter from Special Deputy State Engineer Hill, suggesting a discontinuance of the work. To this letter the

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contractor sent a letter of protest stating he would claim damages for the stoppage and additional time for the completion of the contract. The situation remained in this condition until June 24, 1909. The contractor holding himself, his plant, men and equipment ready to recommence or continue the work when ordered or directed to do so by the authorities or representatives of the State.

On June 24, 1909, the stop order of December 24, 1908, was revoked, and on June 25, 1909, the contractor received a letter from William B. Landreth, Special Deputy State Engineer, enclosing a copy of proposed alteration orders. Alteration order No. 7 made changes in the plans as originally drawn, and deductions from and additions to the work specified in the contract, which were made necessary by the discovery of the soft material in the foundation of Lock No. 7, and which also made it impracticable to construct the lock on that site.

Lock No. 7 was eliminated, the grade of the prism of the canal was changed to the same grade as that which formerly existed north of Lock No. 7, and the amount of the contractor's excavation was greatly and materially reduced.

By this alteration order the State called for the following eliminations, alterations and changes:

1. To eliminate the construction of Lock No. 7, etc.
2. To eliminate the abutments and approaches for the highway and the electric railway bridge across the lower end of Lock No. 7, Station 1234+19 and to substitute piers, abutments and approaches for a highway bridge at Station 1240.
3. To change the plans for dock walls at lower approach to the Junction Lock.
4. To change the plans for abutments of the Argyle Street highway bridge across the canal at Station 1218+85.
5. To change the plans for sluice gate and spillway at Station 1219+26.
6. To change the dimensions of canal prism from Station 1217 to Station 1245.
7. To provide a concrete retaining wall on west side of canal from Station 1241+72 to Station 1245.

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8. To change the plans for wheel pits of power plants at Lock No. 8, Station 1139+90.5.

The claimant contends that the effect of this alteration order was to eliminate work from the original contract of the value of \$398,612. That the new work provided for in the order amounted to \$153,584.50, which if added to the first named sum amounts to \$552,196.50, which he claims is the total value of the work affected by the alteration order, and if all the substituted and new work claimed under the alteration order were allowed, it would decrease the amount to be received by him under the original contract \$245,027.50.

Upon the receipt of this letter from Special Deputy State Engineer Landreth enclosing copies of the proposed alteration orders, the contractor sent to the State officials a letter in these words:

"We are in receipt of a letter from Mr. William B. Landreth, dated June 24th, making certain fundamental changes in the plans covering the work embraced in our contract No. 27, and also eliminating therefrom and taking from us large portions thereof. * * * We hereby notify you that we decline to comply with said order, and as we have been verbally informed by those in authority that the same will be insisted upon, we hereby notify you that we elect to treat the said order and insistence thereon as in violation of the terms of said contract and as a breach thereof. We shall accordingly cease all work under said contract and shall hold the State of New York and its officers liable for all damages occasioned by the said action upon the part of the State and the breach of said contract above referred to, as well as all other breaches in connection therewith."

By this letter the contractor refused to proceed with the work, to comply with the terms of the alteration order and in effect and substantially abandoned the original contract. Thereafter, the State Engineer, pursuant to law, certified to the Canal Board that the work was not being performed according to the contract and for the best interest of the State. Subsequently and on the recommendation of the Superintendent of Public Works, the Canal Board canceled the contract and provided for the reletting of the unfinished work.

The stop order of December 24, 1908, directed the discontinuance of work south of Station 1217. The State contends that

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16,084 feet of the work to be done was north of this Station. That this work consisted of excavation of earth and rock, trimming slopes, and making embankments and concrete structures amounting to \$192,169.52 and which could have been done in April, 1909.

The claimant concedes no work was done under the contract after the issuance of the stop order of December 24th, but claims that the main portion of the work not affected by the stop order was rock excavation, that this rock was to be used in the construction of Lock No. 7, and that it could not have been utilized, and the contractor did not know where to haul it, until the new plans for the construction of this lock were settled. That the balance of the work north of Station 1217 was a small percentage of earth excavation, that this work could not have been done in cold weather, and that there were no grade or stake slopes given by the State's Engineer for doing the work, and no request or demand was made by the State officials that it should be done.

The claimant brings this action under these circumstances against the State, to recover damages for the loss of unfinished work under the contract, the estimated profits arising therefrom, the expenses of keeping his plant in readiness to perform work during the delay caused by the stop order and the incidentals connected therewith.

I. The State raises the preliminary objection, that the claimant not being a citizen of this State has not the privilege of suing it.

The claimant is a corporation organized and existing under the laws of the State of Indiana. But before entering into the contract with the State it had complied with all the statutory requirements authorizing it to do business in this State, and by this compliance the State granted to it permission and license to transact its business and make its contracts for performance within this State. Moreover, when the State made the agreement with the claimant it knew and had full knowledge that it was a non-resident corporation, yet it made the contract with it for the doing of the work specified therein. The State raised no objection as to its competency to contract when the agreement was

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made, permitted the company to commence the discharge of its obligations, and partly do the work covenanted for. The State cannot enter into a legal agreement requiring the performance of work, permit the contractor to lay out capital and when the work is finished, or the services rendered, escape liability by saying the contractor was not a citizen of the State and it cannot be sued for that reason. Such a plea would fall within the constitutional inhibition and could not be sanctioned.

Where one knowingly enters into a contract with one under an alleged disability, he is estopped from denying the validity of the contract which he knowingly made by reason of the disability which he knew existed at the time he made the contract.

The claimant has filed a claim which it is not disputed this court would have jurisdiction of, were the claimant a citizen of the State of New York.

The privilege of suing the State for the causes of action mentioned in the Code is a general provision; the language does not restrict the privileges to residents or citizens of this State, and it contains no inhibition as to non-residents or citizens of another State suing it. It is general and comprehensive in its terms and the privilege of suing the State, in the instances where the State agrees to waive its sovereignty, is given, without limitation as to residence, to all who have grievances within the terms of the statute.

The Federal Constitution, art. 4, § 2, subd. 1, provides:

“The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.”

And the Fourteenth Amendment thereto provides:

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.”

McKinley in his Annotated Federal Statutes treating of these provisions of the United States Constitution says:

“This clause secures and protects the rights of a citizen of one State of the United States to pass into any other State of the Union and * * * to institute and maintain actions of any kind in the Courts of the State.” Its

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sole purpose was to declare to the several States that whatever rights you grant to your own citizens "shall be the measure of the rights of the citizens of other States within your jurisdiction." Vol. 9, § 1, p. 159. § 2, pp. 159, 160. § 6, p. 161. § 14, p. 166. § 18, p. 174. See also opinions: *Slaughter House case*, 16 Wall. 36, p. 79, 98-100, 117, 119; *Cole v. Cunningham*, 133 U. S. 107, 114. *Warner v. Jaffrey*, 30 Hun. 326, 331. *Hargraves Mills v. Harden*, 25 Misc. 665. *People v. Ins., Co.*, 92 N. Y. 311, 325.

It has also been held that the word person, as used in these provisions of the Constitution, includes a corporation. (*Smyth v. Ames*, 169 U. S. 466; *Hargraves Mills v. Harden*, *supra*; *Missouri R. R. v. Mackey*, 127 U. S. 205; *Home Ins. Co. v. People*, 134 U. S. 594.)

This point was raised in the case of Bucks against the State,* and being again presented in this case I have further examined it, and am of the same opinion that a citizen of the United States, whether an individual or a corporation, though a non-resident of the State may sue the State of New York in those instances where the sovereign has permitted its liability to be determined in this court.

II. AS TO THE ALTERATION ORDER

The State of New York is engaged in a work of stupendous magnitude building a canal from Lake Erie to Albany, from Lake Champlain to the Hudson river, and by utilizing that river, to the Atlantic ocean.

It is a great public improvement constructed by authority of the votes of the citizens of this State, intended to facilitate the commerce and navigation of our country, promote the prosperity of our State and benefit our residents. It is the duty of the court to consider the whole scheme of this internal improvement, the end to be attained and the means by which it is to be accomplished. The contract in question is but a fragmentary part of a plan of great consequence and importance, and in construing it the court should consider the public welfare, the situation and intention of the parties and the purpose and object to be achieved.

In *Solomon Tobacco Co. v. Cohen*, 95 A. D. 297, it was held:

"In the construction of a contract it is the duty of the Court to put itself as near as possible in the situation of the parties and from the consideration

* Reported in 13 C. C. 153. See Judge Murray's opinion at pages 183-185.

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of the surrounding circumstances and the occasion and apparent object of the parties determine the meaning and intent of the language employed in framing their agreement."

The situation of the parties, the purposes for which the contract is made and the surrounding circumstances may be considered with a view of ascertaining the purpose and intent of the parties and interpreting the contract. (*Vaughn Machine Co. v. Quintard*, 37 A. D. 368; *Automatic Sprinkler Co. v. Andrews*, 38 A. D. 56; *Woodruff v. Woodruff*, 52 N. Y. 53.)

It must also be remembered that the power to contract is not unlimited but is restricted by legislation, by public policy, and by the nature of things. (*Sternaman v. Met. Life Ins. Co.*, 170 N. Y. 13; *Falvey v. Woolner*, 71 A. D. 331.)

Let us first view the condition of the work when the second cave-in occurred on December 15, 1908, which caused the issuance of the alteration order which it is claimed justified the contractor in treating it as a violation of and a breach of the contract.

The Barge Canal Act provides that all work for the construction of the canal shall be done by contract, and pursuant to the mandate of this law the agreement mentioned was made by the parties hereto.

The contractor progressed with his work until the above date and the excavation for the foundation of Lock No. 7 had been carried to a depth of 10 or 12 feet. The earth slides occurred, and it was then discovered that the underlying stratum was of soft greasy clay, unstable and totally unfit for the foundation of the lock. Indeed, the claimant's expert witness testified that it would not have been good engineering to build the lock in such material, that the condition thus developed was unusual and unprecedented and that it was impracticable and impossible to construct the lock there under the plans as drawn, because of the nature of the peculiar material found there. The claimant concedes that the "necessity for the change of plan was caused by natural conditions which were only developed during the performance of the work."

Neither the State nor the contractor had any knowledge of this

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natural condition before its discovery during the actual execution of the work.

If it was then impossible to construct the lock at this site **under** the plans as drawn, because of the discovery of the unfit material, and the unforeseen and unexpected condition which had **arisen**, could the State be required to attempt an impossibility or **the** contractor forced to carry out his contract and do the **like** impossibility?

It was said in the early days of English jurisprudence, "Reason is the life of the law" and "nothing is law that is not reason," and later it was enunciated the law does not require the doing of or the performance of impossibilities.

When this condition was discovered a change of the plans became requisite and necessary. Two changes were possible, one by the construction of concrete piling to a depth of 40 feet below the lock as planned, or by the elimination of the lock from the designated site and its construction at a point further south where a proper foundation could be found.

The adoption of the first suggestion would have caused great additional expense, and required materials and items of labor not within the lines of the original contract. While the latter reduced the excavation the contractor was to do and the amount of concrete he was to put in, it lessened the work, or in other words the reduction decreased the compensation or diminished the profits which the contractor would have received or made under his agreement with the State.

The first would have been a problematical success and vastly augmented the cost. The contractor could have refused to do the work because it required material and labor which he had not agreed to furnish or perform under the provisions of the original contract, and the taxpayers of the State would have been saddled with a grievous amount of additional expenditure in an attempt to do a thing which might or might not have proven satisfactory.

The officials of the State were placed in a dilemma. Not to remove the lock would cause onerous supplemental expense, to remove it would decrease the work and profits of the contractor.

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To remove it was proper constructive engineering and for the interest of the public; to retain it was for the benefit of the contractor. The officers of the State chose the second plan and it is incorporated in the alteration order. They adopted the plan which was more reasonable and just, gave assurance of ultimate success and conserved the assets of the State.

In *Tyrrell v. Mayor*, 159 N. Y. 239, 242, it was said:

“The interest of the public, other things being equal, is superior to that of an individual. If the expression * * * is capable of being satisfied in more ways than one, resort to this principle would settle the question by sustaining the appeal.”

In *Clark v. Mayor*, 4 N. Y. 338, the court at pages 341, 342, say:

“The original contract with the water commissioners * * * gave them the right at any time to change the form or dimensions or materials of the work. It is clear, under this provision, that the commissioners were authorized to make any change in the dimensions of the work they might deem proper, although by such change the excavation of rock or other materials might be very materially reduced from the original estimate. Nor would the contractors be entitled to additional compensation, although such change might have the effect to deprive them of the privilege of doing the easiest and therefore the most profitable part of the work. They took upon themselves this hazard by the terms of their contract. But this provision although it gave the commissioners power to direct in good faith any change in the form or dimensions of the work, did not authorize them to stop the work in an unfinished state, and thus arbitrarily annul the contract, and this was a question for the referees to determine, whether the commissioners simply varied the form or construction of the reservoir so as to make a less amount of excavation sufficient, or put an entire stop to the work, leaving the reservoir unfinished.”

A contractor, who makes a gross bid for the entire performance of a given work, assumes the risk as to the nature and quantity of the work to be performed, even though the approximate estimates of the quantities which are materially wrong have been prepared by the public authorities for the guidance of the bidder. (*Lentillon v. N. Y. City*, 102 A. D. 548.)

An unforeseen contingency, which neither party knew of or anticipated, arose in the prosecution of the work which made it

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impossible and not good engineering to build the lock on the site agreed upon. It was a sub-surface condition which was only disclosed when the excavation reached that depth, and when it was thus discovered rendered a change of plans essential. The line of the canal was not changed nor was the general form of construction altered. Of the three locks which the contractor was to build, one was eliminated from the site on which it was found impossible to construct it and changed to a feasible location further south within the boundary of the original agreement where it was prudent to construct it.

It is not claimed that the State acted in bad faith, or from whim or caprice. The change which was made in the plans was a necessary and proper one caused by the development of an unlooked for natural condition, made imperative to overcome an unanticipated obstacle. The State officials met the situation with aptitude; they acted for the better construction of the canal; they showed proper judgment in changing the site of the lock and they did that which was for the best interest of the public and the taxpayers of the State.

Bearing these facts in mind we approach a construction of the contract and the rights of the parties thereunder. No deception or misrepresentation was practiced on the contractor, nor is any charged. He signed the contract with his eyes open, fully warned and knowing its covenants and conditions which have been quoted. He took upon himself the hazards of the terms of the contract. In paragraph 7 of the contract the State reserved the right to "make such additions to or deductions from such work *or changes in the plans* and specifications covering the work *as may be necessary*, and the contract shall not be invalidated thereby." If language has any significance or words have any meaning it seems to me that the intent and design of this sentence is clear and was to confer on the State the right to make such changes in the plans as became necessary during the development of the work; changes not arbitrarily or unjustifiably made, but changes made in good faith, which necessity demanded and which became essential during the progress of the execution of the contract.

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The changes which the State made I think have been shown to have been necessary changes. Such changes the contractor voluntarily gave the State the right to make, and when he signed the agreement he assumed the risk that such changes might be made. (See *Norcross v. Mills*, 198 N. Y. 336, 341.)

I have examined the very able brief of the counsel for the claimant and the cases cited, yet to my mind these citations do not meet the exact exigencies or the equities of the case at bar. Some are inapplicable and others distinguishable. Each case must be governed by its own facts and decided on its merits so far as the law permits. It is primarily the duty of the courts to do justice and administer equity according to the deserts of each case. To apply a hard and inflexible rule of law in this case would require the carrying out of an unachievable or inadvisable scheme, and establish a precedent which would cast incalculable taxation upon the people of the State.

The State in doing a work of this dimension across such an extent of territory, it may be assumed, contemplated that unforeseen impediments might arise which would necessitate a change of plans to overcome unlooked for obstacles. So it reserved the right to meet such conditions when they arose and to make such changes "as may be necessary" without invalidating the contract.

If such an emergency occurred and a change of plans became indispensable to meet it, the contractor, it seems to me, should have complied with the obligations of his contract, obeyed the alteration order and proceeded with his construction work. I do not mean to say that the State would not have been liable to the contractor for the work done and for such positive loss and damages as such change of plans actually caused him. Fair dealing on such a contingency happening would cause the contractor to be reimbursed for his certain and definite loss and in my judgment the State would be liable for such damages to the contractor. But in this case the claimant pursued no such course. On the receipt of the alteration order he notified the State that he declined to

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comply with said order and elected to treat it as a violation of the terms of the contract and as a breach thereof and ceased all work under the contract.

This leads to a consideration of the claim for:

III. PROSPECTIVE PROFITS

Being of the opinion that the State acted judiciously in good faith and within its legal rights in issuing the alteration order it follows that the claim for prospective profits should fail.

It may be presumed that the State in planning a work of such great scope, the greater part of which was beneath the surface of the ground, assumed that it might be required to make necessary changes to overcome unknown obstructions and hindrances. So it provided in the agreement that "no claim shall be made by the contractor for any loss of profits because of any such change." The claimant knew of this stipulation and signed the contract with this covenant in it and it is just he should be bound by the limitations he wittingly assumed.

The claimant was not dealing with an individual for the doing of a thing open to visual inspection where all the casualties could be seen and provided for. He was contracting with a sovereign power engaged in the construction of a great undertaking of manifold complexities, requiring the surmounting of difficulties when they were discovered and involving the solution of many intricate engineering problems some of which could only be solved when they were presented. This contract was only one of many and this work only part of the greater whole.

The State had the legal right to, and, in view of the above, wisely inserted the provision in the contract that no claim should be made for loss of profits. It was a reasonable and under the circumstances a needful stipulation and the claimant agreed to it.

In *Danolds v. State*, 89 N. Y. 36, 44, 45, the court said: "So far as is needful the Sovereign can protect itself against prospective profits by stipulations in its contracts, and in the absence of such stipulations it must be liable for such profits like individuals."

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In *Jones v. Judd*, 4 N. Y. 411, 414, the court held where there was no breach of the agreement by either party "the plaintiffs could not recover profits."

IV. DAMAGES OCCASIONED BY THE STOP ORDER

The so-called stop order was issued December 24, 1908, and directed the contractor to discontinue all work south of Station 1217 until such time as the State perfected its new plans. This direction was continued to June 24, 1909, when the alteration order was issued which the claimant alleges caused a breach of the contract. It will be observed that a period of six months elapsed between these dates and during this time the contractor wrote to the State officials complaining of the delay and intimating a desire to proceed with his work. The Deputy State Engineer replied suggesting a discontinuance of the work.

The provision in the contract authorizing a suspension of work is "that if in the judgment of the State's Engineer the work is not being performed according to the contract or for the best interest of the State * * * the Canal Board shall have power to suspend or stop the work" etc. and another: "that the right is reserved to the Superintendent of Public Works to suspend or cancel this contract, as above provided" etc.

The last quotation undoubtedly means that the contract can only be suspended or canceled for justifiable causes within the intent and purpose of the agreement.

It cannot be said that when this order was issued the work had not been performed according to the contract or for the best interest of the State. For the contractor had progressed satisfactorily with his work, and without any complaint being made by the State, up to the time when, as the claimant says: "The condition arose which made it necessary to formulate new plans for the work."

The necessity which caused these new plans did not arise from any fault of the contractor but were, as he says, "occasioned by natural conditions which were only developed during the performance of the work," a sub-surface condition not known before

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the drawing of the original plans, which was only discovered during the prosecution of the work, and for which neither party was solely responsible. The State caused a suspension of all work south of Station 1217 for its own interest. While it may properly have done so at that time, I think the delay of six months in perfecting the new plans was unnecessary and unreasonable. The State could have informed the contractor the new plans would not be ready until a certain or approximate date and the claimant could then have minimized his expenses and damages. But no such notification was given, the contractor, with the knowledge of the State, kept the company's plant, men and equipment in daily readiness to proceed at any time with a continuance of the work. For these actual damages which the contractor sustained thereby I think the State is responsible.

The facts in *Curnan v. Otsego R. R.*, 138 N. Y. 480, were somewhat similiar to this case. The court here said at page 490, "Any damages which the plaintiff sustained by the unreasonable delay of the company * * * the plaintiff is entitled to recover."

V. AS TO THE STATE'S COUNTERCLAIM

The facts pertaining to the earth slides, the State's demand upon the contractor to repair and the claimant's refusal have been given. After this refusal the State constructed an embankment some distance from the bank of the canal and the actual site of the cave-in and seeks to charge the claimant with this construction work as a set-off or counterclaim.

At the time of the first slide the contractor was excavating to a one on one slope. When this accident happened he notified the State authorities and was directed by them to flatten the incline to a 3 on 1 grade and while working in this gradient the second cave-in happened.

The claimant was executing his contract according to the plans and specifications of the agreement. He was making the embankment conformable to the grades given him and obeying the lawful directions of the State Engineer. He was following the

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line or slope given him by the State officials and excavating in accordance therewith without any objection or complaint being made on the part of the State.

These earth slides came from natural causes and resulted from no fault, omission or negligence on the part of the contractor. The company was doing this work agreeably to the plans furnished with the contract. It was making the slope pursuant to instructions rightfully given, at the incline or slant required by the State, and there was no proof of any negligence on the part of the contractor.

It would be unjust to require the contractor herein while doing his work according to the provisions of the agreement and pursuant to the lawful commands of the State, to do constructive work in an adjacent place, under the pretense that it was the reparation of an injury when that injury was not caused by any impropriety or negligence on his part.

In addition the State under this contract issued an order for the repairing of a previous cave-in and paid for the same as extra work. The Advisory Canal Board also, respecting this identical cave-in, passed a resolution advising a general charge for repairing it be made against the General Canal Fund.

In *Sattler v. Hallock*, 160 N. Y. 291, the court said that the actions of the parties to a contract in proceeding under its provisions may be regarded in ascertaining what they understood to be the nature of their agreement.

In view of the above I think the set-off or counterclaim should be disallowed and dismissed.

LASTLY

I am of opinion that the claimant is entitled to judgment as against the State in accordance with the views I have above expressed and that judgment should be given in favor of the claimant and against the State for the sum of \$70,679.25 with interest on \$61,144.16 from December 15, 1908.*

* Judgment unanimously affirmed in 145 App. Div. 41, and in 204 N. Y. 381.

Opinion by Rodenbeck, J.

JAY B. KLINE, Claimant, v. THE STATE OF NEW YORK

Claim No. 9737.

The State is not liable for damages to abutting property for closing a canal bridge pending repairs where it appears that the repairs were made with reasonable dispatch considering the circumstances.

(Decided September 30, 1910.)

J. B. Kline, for claimant.

The Attorney-General, for the State.

RODENBECK, J. This claim was filed for the alleged negligence of the State in repairing a bridge over the Seneca river on the main highway between the city of Syracuse and Baldwinsville in the county of Onondaga and is based upon the fact that the Seneca river at this point is used by the State as a part of the Oswego canal and upon the claim that the State is under obligations to maintain the bridge for public travel.

When the claim was first moved for trial a motion was made by the State to dismiss the claim upon the ground that the facts stated in the claim did not constitute a cause of action against the State. This motion was taken under advisement by the court and there was submitted with the motion a written statement of facts which the claimant expected to prove upon the trial. In deciding the motion the court of course assumed the truth of the facts set forth in the claim and in the supplemental statement and upon the facts therein recited it found that the State could not arbitrarily close and keep closed a bridge which it is bound to maintain as a highway which was in existence when the canal system was built and refuse to repair it and prevent others from repairing it without subjecting itself to damages to the property abutting partly upon the bridge and resulting from thus closing the highway. The State can not close a bridge forming a part of a public highway and arbitrarily and negligently omit to make repairs without rendering itself liable to special damages occurring

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to the abutting owner on the highway particularly if his property abuts upon a bridge as does a part of the property in question. If this were not true the traffic upon important streets in cities where canal bridges exist could be congested and great damage done to the abutting property for an indefinite period without recourse for damages. The State may close a bridge for repairs, but the repairs must be made with reasonable diligence unless legal grounds are shown for the delay. Upon the contrary it appears that the delay was arbitrary and negligent. The State can not evade its duty to repair a bridge by arbitrarily closing it and allowing it to remain closed. Upon the claim and upon the facts submitted the claim can not be dismissed but must be heard upon its merits. (*Rochester White Lead Co. v. City of Rochester*, 3 N. Y. 463.) The state of facts in this case must not be confused with a case of damages occurring while repairs are in progress or an improvement of a public bridge is under way but a claim for damages for failure to enter upon the performance of that duty. The State without subjecting itself to claims for damages has a reasonable time in which to prepare for repairs to a public bridge and the necessary time to make such repairs when begun. Damages that occur while repairs or improvements are being prosecuted diligently are *damnum absque injuria* which the public must endure in the absence of statutes allowing damages. Sometimes damages are permitted by statute where public improvements are made as for instance where the grade of a street is changed (*Folmsbee v. City of Amsterdam*, 142 N. Y. 118) and when an improvement is one for the benefit of private or corporate interests and interferes with the right to light, air and access. (*Story v. N. Y. Elevated R. R. Co.*, 90 N. Y. 112; *Sander v. State*, 182 N. Y. 400.) Nor must the case at bar be confused with a case where a public highway or bridge is abandoned by the authorities. The State in this instance for two years negligently failed to repair a bridge and then constructed a new one. It might have abandoned the bridge for a sufficient reason without subjecting itself to liability for damages if another suitable means of access remained to the claimant's premises. (*Coster v. Mayor*, 43 N. Y. 399; *Fearing*

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v. *Erwin*, 55 N. Y. 486; *Egerer v. N. Y. & H. R. R. Co.*, 130 N. Y. 107; *Kings County Fire Ins. Co. v. Stevens*, 101 N. Y. 411.) Judge Finch says in *Kings County Fire Ins. Co. v. Stevens* (*supra*), that "the rule preserves access but does not give two modes of access and a double right of way" (p. 418). Judge Potter says in *Egerer v. N. Y. C. & H. R. R. Co.* (*supra*), that the authorities may discontinue a street without liability for damages where "there is left to the private citizen other and suitable means of access" (p. 114), but he also says, "I am not disposed to adopt the doctrine that a municipality may close up a street upon which abutting owners have built expensive structures for residences and business and enjoyed access to them from the street so closed for many years arbitrarily and without compensation for the injuries done to such rights" (p. 114).

In thus deciding the motion the court expressly stated that the State should be remanded to its proofs and that in dismissing the motion the court did not undertake to pass upon the merits of the claim. The case accordingly was brought on for trial and upon the evidence produced the court is now asked to rule upon the merits of the case. Upon the evidence the claimant has failed to make out a case. There was considerable delay in repairing the bridge, but when it is borne in mind that there were two towns besides the State involved in the question of making the repairs, it can not be said under the circumstances of the case that more than a reasonable time expired before the repairs were made. In the statement of facts it appeared that the delay was arbitrary and negligent, but as they were developed upon the trial the delay was not unreasonable considering the parties involved.

Upon the merits, therefore, I think the claim should be dismissed.

MURRAY, J. (concurring). Over the Seneca river, near Cold Spring, in the county of Onondaga, there was a bridge which was used by the State as a part of its canal system. The bridge also connected the towns of Salina and Lysander in said county. When this bridge was built it was constructed by the said towns and the State, each town paying one-fourth and the State one-

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half the expense thereof. It was also maintained by the towns and State, the towns contributing two-thirds and the State one-third of the cost of its maintenance. On each side of the Seneca river is the highway between Baldwinsville and Syracuse which the bridge connected.

In July, 1903, the abutments of the bridge were deemed unsafe to support it and it was closed by the State for traffic. Iron rods were placed across each end to prevent entrance upon it.

The bridge was closed until October, 1904, about a period of fifteen months; then a ferry boat was used at this place for the transportation of passengers and vehicles. In the spring of 1905 the construction of a new bridge was commenced. After the old bridge was condemned there was some delay in beginning the construction of the new one, owing to the divergent views of the officials of the towns and State as to whether the old bridge should be repaired or a new one built. Examinations were made of the abutments of the old bridge, and conferences were held by the representatives of the towns and State as to the remedial measures necessary to put the bridge in use. These conferences finally resulted in the adoption of plans to build a new bridge with one span across the river. After this determination was reached the new bridge was built by the towns and the State.

The greater part of the delay in beginning the construction of the new bridge was caused in getting the consent of, and action by the towns of Lysander and Salina for its erection, instead of repairing the old one.

The claimant owns a farm on the northerly side of the Seneca river, and used this bridge which made a shorter and more direct way of going to and from Syracuse, in which city he found a ready market for his farm produce, and claims that by reason of the delay in building the new bridge he sustained damage in that he could not so rapidly market his crops, and that a hotel near this bridge, owned and leased by him, lost so much of its custom he was obliged to reduce the rent that he was to receive from his tenant.

It must primarily be conceded that the State was engaged in a work of public utility, the building of a new bridge as a public

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improvement for the benefit of the public and for the convenience of residents of that locality. That no part of the claimant's property was taken, and any damages suffered by him were consequential damages sustained by reason of the erection of the bridge for the benefit and convenience of the public.

It is said, "The doctrine is well established in this State, that public officers lawfully engaged in making public improvements, and corporations engaged in the performance of works of a public nature, authorized by law, are not liable for consequential damages occasioned by it to others unless caused by misconduct, negligence and unskillfulness."

In *Atwater v. Village of Canandaigua*, 124 N. Y. 602, "The defendant while engaged in building a bridge, in pursuance of statutory authority, erected a cofferdam in the outlet of a lake, which was necessary for the work, which obstructed the flow of the water from the lake and caused it to remain on plaintiff's land, and substantially deprived him of its beneficial use for one season, held, it appearing that the work was properly and expeditiously done, that defendant was not liable in damages." (Headnote.)

In *Bellinger v. Central Road*, 23 N. Y. 42, it was held, "Where in pursuance of legislative authority, granted for the purpose of constructing a work of public utility, the defendant is liable only for such injury as results from the want of due skill and care * * * ." (See also *Radcliffe's Executors v. Brooklyn*, 4 N. Y. 195; *Uline v. Cent. Road*, 101 N. Y. 98.)

In *Acker v. Town of New Castle*, 48 Hun 312, it was said: "The inconvenience resulting to abutting owners by grading highways are to be regarded as the natural consequences of maintaining highways." (See also *Lester v. Mayor*, 79 Hun 479.)

In this claim there is no proof of misconduct or unskillfulness on the part of the State in the performance of its work. I do not think that the construction of the new bridge was unduly or negligently delayed, and any delay, if there was such, was not caused solely or entirely by the State.

I am of the opinion the claim should be dismissed and judgment given for the State.

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ONTARIO KNITTING COMPANY v. THE STATE OF NEW YORK.*

Claim No. 9485

1. Where a statute authorizes the State Engineer to appropriate such property as in his judgment is necessary, he is required to act in good faith and with a sound discretion and not arbitrarily or capriciously, and an appropriation made without the exercise of a sound judgment which transcends the necessities of public use is unauthorized, illegal and void.

2. Where the State Constitution provides that private property shall not be taken for public use without just compensation and that no person shall be deprived of property without due process of law and a statute for the construction of a State canal provides that the State Engineer shall take such property as in his judgment shall be necessary and the lines of the canal are fixed at the time of the appropriation, his judgment must be limited to the actual necessities of the canal as approved and legally planned and an appropriation outside of the lines of the canal though consented to by the owner, not necessary for spoil, buildings or other public purposes in connection with the construction and operation of the canal is unauthorized, illegal and void.

3. The State is not estopped from questioning the acts of its engineer in making an appropriation when being vested with authority to make appropriations as shall in his judgment be deemed necessary he acts arbitrarily and without the exercise of a sound judgment and appropriates property that is not necessary for the public use.

(Decided September 30, 1910.)

Charles N. Bulger and Udelle Bartlett, attorneys for claimant, Oswego, N. Y.

Simpson, Werner & Cardozo, counsel, New York City.

Edward R. O'Malley, Attorney-General, *Daniel E. Brong*, *A. E. Tuck*, and *M. H. Quirk*, for the State.

THIS claim is for the value of the land and buildings alleged to have been appropriated by the State of New York for the so-called Barge canal. The property is situate in the city of Oswego and lies between a private hydraulic canal and the old Oswego canal which the State proposes to enlarge into the Barge canal. The amount of the claim is \$1,019,051.78. The maps, plans and specifications for the canals are required by statute to be made

* Reported in 69 Misc. 145; 125 N. Y. Supp. 57. See note on page 391.

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by the State Engineer and submitted for approval to the canal board. The maps, plans and specifications in this case provided for the construction of a canal along the line of the buildings of the claimant, underpinning claimant's walls where they did not rest on a solid foundation. In this condition the plans were presented to the canal board for approval, but the canal board refused to approve of the underpinning of the walls; a question having arisen as to the right of the State to do so without an appropriation. The underpinning of the walls was eliminated from the contract, and as thus changed the contract was let. The State Engineer by statute is authorized to appropriate property as may in his judgment be necessary. After the plans had been thus changed and approved, he took the usual steps necessary to accomplish the appropriation of the claimant's land and buildings. Thereafter the appropriation having been questioned the canal board by resolution directed the State Engineer either to appropriate only what was necessary to shore up the walls of claimant's buildings or to move the canal so as to avoid any appropriation. The latter course was taken and the canal is being built twelve feet away from the claimant's buildings. This claim was filed upon the theory that the appropriation was final, and the State contests the claim upon the ground that the State Engineer exceeded his authority in making the appropriation and that the appropriation is void both under the statute and under the State Constitution.

Other facts appear in the opinion.

RODENBECK, J. The claimant is the owner of land in the city of Oswego in Oswego county in the State of New York, upon which there is an extensive knitting mill plant, the larger portion of which it is claimed was appropriated by the State, for which the claimant seeks compensation in the sum of \$1,019,051.78.

The main portion of the property was bounded by the old State Oswego canal on the west and by a private hydraulic canal on the east, the intervening space between these two waterways being almost entirely occupied by buildings used in connection with claimant's business.

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Both the State canal and the hydraulic canal began at the Oswego river, a short distance south of the property, being separated where the claimant's property is situated by a narrow strip of land upon which the claimant's predecessors had constructed the knitting mill in question, the hydraulic canal being controlled by headgates and the State canal by a lock.

Across the hydraulic canal to the east is a piece of land rising from the hydraulic canal to First street, part of which is occupied by the Oswego Shade Cloth Company and part of which is owned by the claimant, giving it access by means of a bridge from its main buildings to First street.

West of claimant's property lay the old Oswego canal as stated, and west of the canal the Oswego river, the old Oswego canal at this point having been built along the easterly side of the Oswego river with a towing path adjacent to claimant's property.

Chapter 147 of the Laws of 1903 of the State, known as the Barge Canal Act, approved by a vote of the people of the State, authorized the issue of \$100,000,000 in bonds for the improvement of the Erie, Oswego and Champlain canals and therein provided that the route of the proposed Oswego canal should follow at this point the route of the existing Oswego canal, subject to changes authorized by the statute (§ 3).

The statute also provides that the work should be done by contract and that before any contract should be made the State Engineer should divide the whole work into sections and should make maps, plans and specifications for the work, and a detailed estimate of the cost thereof, and that his estimate of the cost with the maps, plans and specifications "when adopted by the Canal Board" should be filed in his office and a copy thereof filed in the office of the Superintendent of Public Works. (L. 1903, ch. 147, § 6.)

In pursuance of this statute the State Engineer in the year 1906 prepared maps, plans and specifications for the portion of the improved canal which adjoined claimant's property on the west and which section of the improvement became known as Contract No. 35.

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According to the maps, plans and specifications thus prepared the enlarged canal followed the line of the old canal at the location of the claimant's property, but the towing path, which formerly separated the canal from the buildings, was to be removed and because claimant's walls did not rest entirely on a rock foundation the walls were to be underpinned, the easterly wall of the canal abutting directly on the west wall of claimant's buildings.

These maps, plans and specifications showed with many other details the exterior lines of the canal, including proposed appropriations for the construction and maintenance of the canal, and revealed the fact that no part of the canal itself was on claimant's land; the only connection being the requirement as to underpinning its walls, except a narrow strip of land, the title to which was disputed by the State.

The question as to the right to interfere with claimant's buildings by underpinning arose between the claimant and the State, and on December 24, 1906, the Attorney-General of the State advised the deputy State engineer that the State had no right to go upon the land of claimant without its consent to do the work called for under the proposed plans.

Thereupon, on December 28, 1906, the maps, plans and specifications for Contract No. 35 were approved by the advisory board of State experts and later by the State canal board with the exception of the work of underpinning called for on claimant's premises which was eliminated from the contract by the words written upon the maps, plans and specifications "not included in contract 35" and left for future consideration.

A completed canal could have been constructed at this point under the proposed maps, plans and specifications as changed but it is urged by the claimant that the easterly wall of the canal, which was about four feet wide at the top, would not be sufficient to sustain the lateral pressure upon it in case of any interference by claimant with its walls or with the earth back of or under them.

The statute of 1903 (ch. 147) referred to, approved by the people, provided at the time of the alleged appropriation with

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reference to the appropriation of property necessary for the new canal as follows:

“The state engineer may enter upon, take possession of and use lands, structures and waters, the appropriation of which for the use of the improved canals and for the purposes of the work and improvement authorized by this act, as shall in his judgment be necessary. An accurate survey and map of all such lands shall be made by the state engineer who shall annex thereto his certificate that the lands therein described have been appropriated for the use of the canals of the state. Such maps, survey and certificate shall be filed in the office of the state engineer, and a duplicate copy thereof, duly certified by the state engineer to be such duplicate copy shall also be filed in the office of the superintendent of public works. The superintendent of public works shall thereupon serve upon the owner of any real property so appropriated a notice of the filing and of the date of filing of such map, survey and certificate in his office, which notice shall also specifically describe that portion of such real property belonging to such owner which has been so appropriated. If the superintendent of public works shall not be able to serve said notice upon the owner personally within this state after making efforts so to do, which in his judgment are under the circumstances reasonable and proper, he may serve the same by filing it with the clerk of the county wherein the property so appropriated is situate. From the time of the service of such notice, the entry upon and the appropriation by the state of the real property therein described for the purposes of the work and improvement provided for by this act, shall be deemed complete, and such notice so served shall be conclusive evidence of such entry and appropriation and of the quantity and boundaries of the lands appropriated. The superintendent of public works may cause a duplicate copy of such notice, with an affidavit of the service thereof on such owner, to be recorded in the books used for recording deeds in the office of the county clerk of any county in the state where any of the property described in such notice is situated, and the record of such notice and such proof of service shall be prima facie evidence of the due service thereof.” (L. 1903, ch. 147, § 4, as amended by L. 1906, ch 355.)

The State Engineer did not take possession of any part of claimant's property but on December 24, 1907, the division State engineer certified to a map embracing the property of claimant between the State canal and the Hydraulic canal; on December 31, 1907, the special deputy State engineer certified that the land described on the map had been permanently appropriated by the State;* on January 2, 1908 a copy of the map was filed in the office of the State Superintendent of Public Works who on

* See note on page 391.

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January 8, 1908, caused a copy of the map and notice of appropriation to be served upon the claimant.

On April 15, 1908, the Superintendent of Public Works questioning the necessity and legality of the appropriation wrote to the State Engineer asking for the reasons for the appropriation and after some correspondence on the subject between the State Engineer, deputy State engineer and Attorney-General, the Canal Board on April 30, 1908, adopted a resolution requesting the State Engineer to appropriate only so much of claimant's property as was necessary to shore up its walls or to alter the plans so as to avoid any appropriation.

Thereafter the maps, plans and specifications were changed by moving the canal to the west thus obviating the necessity for the underpinning of claimant's walls and at no time has claimant's property been actually taken possession of by the State or any construction made or material placed thereon.

Thereafter claimant filed this claim which the State seeks to defeat on the ground that the appropriation was unnecessary and unauthorized and while all the formalities of the statute relating to appropriations seem to have been complied with except that the State never actually entered upon or took possession of any part of claimant's property, claimant insists that the service of the notice of appropriation upon it was final and conclusive and that the alleged appropriation cannot be attacked by the State.

From this brief statement of the facts and from the other evidence introduced upon the trial it appears that there was no necessity for the appropriation of claimant's property. The line of the canal shown upon the maps, plans and specifications did not include any of the claimant's property so that no excuse for the appropriation can be found in the description of the canal and its works as shown on the maps, plans and specifications except as to an insignificant portion the title to which is disputed by the State. There was nothing on the maps, plans and specifications or any evidence whatever that the State desired at any time to do anything more than underpin claimant's walls. The towing path of the old canal which adjoins its property on the

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west was to be removed and a substantial canal wall was to be built adjacent to claimant's walls. In making its excavation for the canal there was no obligation on the part of the State to shore up claimant's property (Cyc. Vol. 1, p. 766), nevertheless the claimant refused to allow the work to proceed and the underpinning was eliminated from the contract and all necessity for the appropriation of any part of the property ceased. Unless there was some distinct purpose for which the property or some part of it was needed, there was no authority for taking more than was shown within the lines of the canal and the maps and plans. The portion of the contract relating to underpinning was eliminated and never has been approved by the Canal Board as required by the statute and there never was any necessity for an appropriation even for underpinning. When the underpinning was eliminated from the contract there were no maps, plans or specifications for the underpinning upon which any legal appropriation could be made. The maps, plans and specifications were required to be approved by the Canal Board before the work could be let and no legal appropriation could be made until this approval was had. When the alleged appropriation was made the situation was the same as if the work of underpinning had not been planned. The State Engineer was not called as a witness in the case but there appears in evidence a letter addressed to him by the deputy State engineer which may be assumed to embody the reasons which prompted the State Engineer to make the appropriation. One of the reasons stated in this letter is that the easterly wall of the canal as planned was not sufficiently strong to hold the water in the canal without lateral pressure against the walls of the building and that if at any time there should be any excavation made on the property adjacent to the canal wall it would result in the destruction of the wall. This difficulty could have been obviated by strengthening the wall of the canal and is not a justification for the appropriation of the entire property of the claimant. He also urges that any further encroachment of the canal upon the bed of the river would cause the water to back up in the tail-races of the mills

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on the opposite side of the river thereby incurring claims for damages against the State, but this reason anticipates damages which may never be claimed or recovered and is not a sound reason for the appropriation of the entire property. The final ground advanced is that the wall of the canal is to be only four feet wide on the top and that there would be no available room for terminal facilities; but no appropriation for terminal facilities could be made by the State Engineer except for some distinct purpose approved by the Canal Board and "for boats tying up while waiting to pass the locks," the entire property was unnecessary. The Superintendent of Public Works requested the State Engineer to give his reasons for the appropriation but no reply directly was made thereto other than the letter referred to of the deputy engineer to the State Engineer which was presented at a meeting of the Canal Board.

The plans that were finally carried out provided for moving the easterly wall of the canal to the west of claimant's property leaving an intervening space of earth and obviating all necessity for the appropriation of claimant's property even for underpinning. At no time was there any legal authority for interfering with claimant's walls, and when the alleged appropriation was made the State Engineer anticipated the approval of the plans for the underpinning and acted arbitrarily and without authority, and the alleged appropriation was entirely ineffectual and void.

The discretionary power of the State Engineer to make the appropriation did not give him the power to bind the State by any appropriation that he saw fit to make. In making the appropriation the State Engineer was not only limited by the statute under which he was acting (L. 1903, ch. 147), but he, as well as the State itself, was controlled by the provisions of the State constitution. (Art. 1, § 6.)

The statutes of the State forbade the appropriation. The State had delegated the power to make appropriations for the *new canal* and by statute had provided that the State Engineer might enter upon, take possession of and use lands, structures and waters, the appropriation of which for the use of the canals should "in his

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judgment be necessary.” (L. 1903, ch. 147, as amended by L. 1906, ch. 196.) This language did not give the State Engineer unrestricted authority to make appropriations, but limited him to such as were in his judgment “necessary.” The maps, plans and specifications for the improvement described a certain route, and he was confined to that route. They also show the exterior lines of the canal and he could no more go outside of those lines, except for some specified public purpose, than he could select another route entirely. If he should go outside of these lines for spoil area, necessary canal structures or other necessary purposes, it might distinctly appear that the land is necessary, and if not necessary, no legal appropriation can be made. He cannot act arbitrarily; wherein his acts are reasonable they are valid and wherein they are unreasonable they are void. He must exercise a sound discretion. Each case stands upon its own facts. In these cases there is a middle ground that is debatable and on one side lie those cases where the appropriation is clearly valid and on the other those where they are clearly void. The validity of each appropriation, when attacked by either party, is for the courts, and it is for the courts to say whether or not the appropriation was made in the exercise of a sound discretion and in good faith. (*Sixth Avenue Railroad Company v. Kerr*, 72 N. Y. 332; *Jerome v. Ross*, 7 Johns. Ch. 315.) Even if it be assumed that underpinning was required such work did not justify an appropriation of the entire property. (*Sixth Avenue Railroad Company v. Kerr*, 72 N. Y. 330; *Heyneman v. Blake*, 19 Cal. 572; *New Orleans Pacific Railway Company v. Gay*, 32 La. 471.)

Where a statute authorizes a State Engineer to appropriate such property as in his judgment is necessary, he is required to act in good faith and with a sound discretion, and not arbitrarily or capriciously, and an appropriation made without the exercise of a sound judgment which transcends the necessity of the public use is unauthorized, illegal and void.

The State Constitution forbade the appropriation of the entire property. The constitution says that no person shall “be deprived of life, liberty or property without due process of law; nor shall

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private property be taken for public use without just compensation." (Art. 1, § 6.) This is a restriction upon the authority of the State itself to take property under its power of eminent domain. The State could not invest the State Engineer with discretion to go beyond the language of the constitution. The power of eminent domain is a sovereign right existing independently of the constitution and the language of the constitution is a restriction upon this right. Under its terms property can only be taken for public use. If the taking does not serve a useful public purpose it is unauthorized. Likewise it can be taken only when "necessary." Whenever property is taken that is not necessary the constitutional limitation has been violated. It is open to inquiry, therefore, under the mandate of the constitution itself whether or not the appropriation in this case is for a public purpose and whether or not it is necessary. If it is not necessary it cannot be for a public purpose, but must be for some other purpose not authorized. "The Constitution," says Chief Judge Savage in *Matter of Albany Street*, 11 Wend. 151, "by authorizing the appropriation of private property for public use impliedly declares that for any other purpose private property shall not be taken from one and applied to another." If private property can be taken that is not necessary for public use, where will the line be drawn? Such a power would open the door for an easy evasion of the constitution and make possible the appropriation of private property for private purposes. It is because of the constitution that the State and municipal bodies in appropriating property for highway purposes take to the lines of the *highway*, and if the lines intersect a building, appropriate not the whole of the building but what is necessary for the highway and no more. The State cannot take the whole of a building, though it would be more profitable than cutting off a piece of it, for such a taking would not be for a public purpose but would impliedly be for some other purpose. It is no justification for an appropriation that it is more profitable to take the whole than a part or that the State can sell what it does not need. If such a course could be taken there would be no force in the constitutional limitation

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and private property would be without the protection that is guaranteed to it by the constitution. To sustain an alleged appropriation therefore it must appear if disputed that the property is necessary, and that it is taken for the public use, both of which questions are subject to review by the courts.

The rule in this State is that the action of the Legislature as to the nature of the use to which the property is to be put, that is, as to whether or not it is a public use (*Matter of Deansville Cemetery Assn.*, 66 N. Y. 569; *Matter of Niagara Falls & Whirlpool R. R. Co.*, 108 N. Y. 375; *Waterloo Woolen Mfg. Co. v. Shanahan*, 128 N. Y. 345; *Pocantico Water Wks. Co. v. Bird*, 130 N. Y. 249), as well as the exercise of the power to condemn, that is, as to the necessity of the public use (*N. Y. & H. R. Co. v. Kip*, 46 N. Y. 546; *N. Y. & H. R. R. Co. v. M. G. L. Co.*, 63 N. Y. 326; *Matter of Union E. R. R.*, 113 N. Y. 275; *Rensselaer & Saratoga R. R. Co. v. Davis*, 43 N. Y. 137; *Matter of N. Y. C. & H. R. R. Co.*, 77 N. Y. 248; *Matter of South Beach R. Co.*, 119 N. Y. 141) are reviewable by the courts, for if the use be not public or the necessity does not exist, the taking is prohibited by the constitution. This rule also prevails in other State courts and in the Federal courts, and numerous citations to the decisions of which courts can be found in the text books on eminent domain.

Lewis in his work on Eminent Domain says:

“We think that the constitution impliedly forbids the taking for public use of what is not necessary for such use and, therefore, though the constitution and statute are silent on the subject of necessity, that the power to take is, in every case, limited to such and so much property as is necessary for the public use in question. * * * Necessity and a public use must, in all cases, exist as a condition precedent to the legal right to enforce the remedy given to condemn, and the company (Condemnor) is not the judge of the existence of the necessity, or of the character of the use; both belong to the courts.” (§ 600.)

Nichols in his work on Eminent Domain says:

“When it is decided to take land by eminent domain, what land shall be taken and how much, are matters in the discretion of the Legislature, though land that manifestly cannot be used cannot be taken. * * * Whether there is any necessity whatever is, however, a judicial question, as a taking without necessity in such a case would be unauthorized.” (§ 291.)

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Randolph in his work on Eminent Domain says:

"If there is no statutory direction as to the quantity of property to be condemned, the expropriator may take as much as is necessary for the accomplishment of the purpose. * * * The right of selection is subject, however, to judicial restraint, for the taking of more property than is necessary for the accomplishment of the purpose, is in effect, a taking for private use." (§ 185.)

Cooley in his work on Constitutional Limitations says:

"The taking of property must always be limited to the necessity of the case, and consequently no more can be appropriated in any instance than the proper tribunal shall adjudge to be needed for the particular use for which the appropriation is made. When a part only of a man's premises is needed by the public, the necessity for the appropriation of that part will not justify the taking of the whole, even though compensation be made therefor. The moment the appropriation goes beyond the necessity of the case, it ceases to be justified on the principles which underlie the right of eminent domain." (3d ed. p. 779.)

In *Sixth Avenue R. R. Co. v. Kerr*, 72 N. Y. 330, the court said:

"The state in the exercise of the right of eminent domain, or a corporation having the delegated power, is not bound to take the entire estate, but may take, and strictly should take, only such an interest and right as is necessary to be acquired to accomplish the public purpose in view. An easement merely, or a partial interest, or the right to a temporary or permanent use of property, as well as the entire estate and interest may thus be acquired as the public service may demand, and so long as the owner is compensated for the damages sustained he has no cause of complaint, but he might, if more property, or a larger estate or interest was taken than was required for public use, contend that his rights of property had been illegally invaded." (p. 332.)

In *Stuyvesant v. Mayor*, 7 Cow. 588, the court said:

"Neither can the state or general government transcend the powers conferred by their constitutions. Every act beyond the constitution is void and may be declared so by our courts of justice, whether it emanates from a general or local legislature. An unwarrantable interference with private property is equally unconstitutional and void, whether by the state legislature or a corporation. By neither can it be attached without necessity; and then, if taken, it must be upon just compensation." (p. 606.)

In *Bennett v. Boyle*, 40 Barb. 551, the court said:

"The law of eminent domain extends to lands needed for the public use and no further private property may be taken by the state, and the title of the

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owners divested for this purpose, and for no other. Within this limitation the power of the legislature is indisputable, but further than this it cannot go. The use to which it is to be appropriated must be a public use. The law was so far relaxed by the constitution of 1846 as to allow private roads to be opened through private property. Until that time not even a right of way could be taken from one man and given to another. * * * Fourth avenue was to be enlarged so as to be of a uniform width of 120 feet. For this purpose a strip of land 50 feet in width for a part of the distance, and 40 feet for the residue of the distance, was taken by force of the act to which I have referred, and added to the street. The powers and jurisdiction of the commissioners were limited and restrained to the lines of the avenue, as enlarged. Beyond and outside of them they could exert no power or authority whatever. It was the value of the lands taken and the improvement thereon, with the damages to be sustained by the owners by reason thereof, that the commissioners were to estimate and ascertain. This was their office and they had no other. Buildings, such as those upon the mortgaged premises, are part and parcel of the free-hold and pass from the owner to another or to the public in all ordinary transfers, either voluntary or coercive, as the land itself passes, and as a part thereof. Where land is taken for the uses of a street or avenue such buildings and parts of buildings as are within the lines of the proposed improvement, pass by force of the statute and the proceedings taken under it, to the public authorities with the land taken, the owners being thereby divested of their title; which is resumed by the public; while the residue of such buildings, or parts thereof, beyond and outside of such lines, remain to the owners with the land upon which they stand, the title thereto being untouched and unaffected by the statute and the proceedings taken under it." (p. 554.)

In *Embury v. Connor*, 3 N. Y. 511, under a statute expressly authorizing it to do so, the city of New York without objection acquired in 1838 in the widening of Ann street, the whole of a lot only part of which was within the line of the proposed street, subsequently sold the remainder of the lot, and twenty years thereafter a claim was set up by the heirs of the original owner, who had been paid for the whole lot, that the city could not take more than was necessary, and were defeated in this claim as they should have been under the facts in the case.

In *Matter of Albany Street*, 11 Wend. 149, the city of New York under the same statute involved in *Embury v. Connor*, 3 N. Y. 511, upon a motion to confirm the report of the commissioners for the widening of Albany street who had taken more land than came within the lines of the improvement, the court held that against the objection of the owner such an appropriation could not be made, saying:

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"The constitution, by authorizing the appropriation of private property to public use, impliedly declares, that for any other use, private property shall not be taken from one and applied to the private use of another. It is in violation of natural right, and if it is not in violation of the letter of the constitution, it is of its spirit, and cannot be supported. This power has been supposed to be convenient, when the greater part of a lot is taken, and only a small part left, not required for public use, and that small part of but little value in the hands of the owner. In such case the corporations have been supposed best qualified to take and dispose of such parcels, or gores as they have sometimes been called; and probably this assumption of power has been acquiesced in by the proprietors. I know of no case where the power has been questioned, and where it has received the deliberate sanction of the court. Suppose a case where only a few feet or even inches are wanted from one end of a lot to widen a street, and a valuable building stands upon the other end of such lot, would the power be conceded to exist to take the whole lot, whether the owner consented or not? Or suppose the commissioners had deemed it expedient and proper in this case, in the language of the statute, to take the whole of the churchyard, the act would have been equally within the letter of the statute with their act in the present case, and yet no one would suppose that the legislature ever intended to confer such a power. The quantity of the residue of any lot cannot vary the principle. The owner may be very unwilling to part with only a few feet; and I hold it equally incompetent for the legislature thus to dispose of private property, whether feet or acres are the subject of this assumed power. I am clearly of the opinion that the commissioners have no right to take the strip of land in question, against the consent of the Corporation of Trinity Church." (p. 152.)

Where therefore the State constitution provides that private property shall not be taken for public use without just compensation and that no person shall be deprived of property without due process of law and a statute for the construction of a State canal provides that the State Engineer shall take such property as in his judgment shall be necessary and the lines of the canal are fixed at the time of the appropriation, his judgment must be limited to the actual necessities of the canal as approved and legally planned and an appropriation outside of the lines of the canal though consented to by the owner not necessary for spoil, structures or other public purposes in connection with the construction and operation of the canal is unauthorized, illegal and void.

The State is not estopped from raising the question as to the validity of the appropriation. The provisions in the constitu-

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tion referred to were inserted for the protection of private property but they also protect the State by giving notice of the limitation placed upon it and its agents in taking private property. If the State exceeds its powers its acts are void and the question as to the validity of its acts or those of its agents can be raised by any interested person including the State itself. There is no estoppel because it has vested a discretionary power in its agent. He must come within the limits of his actual authority. (*Delafield v. State*, 26 Wend. 192; 156 N. Y. 366; 33 N. Y. 11; 47 Barb. 36; Wyman's Administrative Law, § 72), or his acts are void and when he is given discretion he must exercise a sound and not an arbitrary judgment. (*People v. Fisher*, 190 N. Y. 468.) Everyone is supposed to know the limits of a public agent's authority and deals with him in excess of that authority at his peril. (*McDonald v. Mayor*, 68 N. Y. 23.) If the agent exceeds his authority or acts in bad faith or in the case of an appropriation expresses an unsound judgment where discretion is vested in him, the State is not bound by his acts (*Litchfield v. Bond*, 186 N. Y. 66), and the State may raise the question when his acts are in issue. (*State v. Beavers*, 86 N. C. 592.) Where discretion is vested in him, his acts must not be the result of mere personal desires but an honest and sound expression of judgment prompted by the discharge of a public duty and when it is not such an expression, the State may go back of his acts and show the facts in repudiation of his acts. (*Rose v. Stuyvesant*, 8 Johns. 426; *President, etc. v. Patchen*, 8 Wend. 47.)

In *Poindexter v. Greenhow*, 114 U. S. 270, the court says:

"The state itself is an ideal person, intangible, invisible, immutable. The government is an agent, and, within the sphere of the agency, a perfect representative; but outside of that it is a lawless usurpation. * * * It is also true, in respect to the state itself, that whatever wrong is attempted in its name is imputable to its government, and not to the state, for, as it can speak and act only by law, whatever it does say and do must be lawful. That which, therefore, is unlawful because made so by the supreme law, the Constitution of the United States, is not the word or deed of the state, but is the mere wrong and trespass of those individual persons who falsely speak and act in its name." (p. 290.)

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Judge Miller said in *Gibbons v. United States*, 8 Wall. 269 :

"No government has ever held itself liable to individuals for the misfeasance, laches or unauthorized exercise of power by its officers and agents. In the language of Judge Story, 'it does not undertake to guarantee to any person the fidelity of any of the officers or agents whom it employs, since that would involve it in all its operations in endless embarrassments, and difficulties, and losses, which would be subversive of the public interests.'" (p. 274.)

Bishop in his work on Contracts says:

"The government is never estopped, as an individual or private corporation may be, on the ground that the agent is acting under an apparent authority which is not real; the conclusive presumption that his powers are known rendering such a consequence impossible. So that the government is bound only when there is an actual authorization." (§ 993.)

Throop in his work on Public Officers says:

"Where an officer exceeds his powers; in such a case, the body for which he acts, whether it is the state, a municipal corporation, or other public organization, is not bound by his acts. * * * The government is never estopped, on the ground that its agent is acting under an apparent authority which is not real." (§ 551.)

It follows from the foregoing that the appropriation of the property of the claimant was unnecessary for any public use and that the State Engineer in attempting to make the appropriation exceeded the authority conferred upon him by the statute and the limitations placed upon him by the State constitution and the claim must therefore be dismissed.

Judgment entered accordingly.*

SWIFT, P. J. This claim was filed to recover the value of certain real estate including water rights of the claimant, situate in the city of Oswego, N. Y., which claimant alleges was appropriated by the State for the purposes of the Barge canal. The State denies that any legal appropriation of claimant's property was made. This contention on the part of the State presents two questions to the court.

First: Was the property of claimant legally appropriated by the State?

* See note on page 391.

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Second: If it was, what was the fair market value thereof at the time of such appropriation?

It is conceded that a notice of appropriation with the accompanying map and description of the property was served upon claimant and filed as required by law, and that all formalities required by statute were complied with January 8, 1908.

The question of whether this constituted a legal appropriation of claimant's property requires a construction of the Barge Canal Law. Section 4 of that act, as it existed on the 8th day of January, 1908, reads as follows:

"The state engineer may enter upon, take possession of and use lands, structures and waters, the appropriation of which for the use of the improved canal, and for the purposes of the work and improvement authorized by this Act, shall in his judgment be necessary. An accurate survey and map of said land shall be made by the state engineer, who shall annex thereto his certificate that the lands therein described have been appropriated for the use of the canals of the state;" that on the filing and service of the notice, as provided by the canal law, the appropriation "shall be deemed complete, and such notice so served shall be conclusive evidence of such entry and appropriation, and of the quantities and boundaries of the land appropriated."

Claimant contends that this section of the Canal Law makes the State Engineer the sole arbiter as to the lands to be taken, that the judgment of the State Engineer in that regard, when once exercised, no matter how, is final and conclusive upon the State. It is true that the State Engineer is a constitutional officer, and that the State when it acts must do so through a duly authorized agent. It can act in no other way. There is no doubt that the State Engineer acted as the agent of the State in acquiring lands for canal purposes. How far is the State bound by the acts of its authorized agents? The same law applies to the State that applies to an individual. A principal is bound by the act of an agent acting within, and in accordance with, the authority conferred upon him, and no further. (*Litchfield v. Bond*, 186 N. Y. 66.)

I think section 4 and section 6 of the Barge Canal Act should be read and construed together. Section 6 is as follows:

"All the work herein authorized shall be done by contract. Before any such contract shall be made, the state engineer shall divide the whole work

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into sections, or portions, as may be deemed for the best interests of the state in contracting for the same, and shall make maps, plans, and specifications for the work to be done, and materials furnished for each of the sections into which said work is divided, and shall ascertain with all practicable accuracy the quantity of embankment, excavation and masonry, the quantity and quality of all materials to be used, and all other items of work to be placed under contract, and make a detailed estimate of the cost of the same, and a statement thereof with the said maps, plans and specifications when adopted by the canal board shall be filed in the office of the superintendent of public works, and publicly exhibited to every person proposing or desiring to make a proposal for such work. The quantities contained in said statement shall be used in determining the cost of the work, according to the different proposals received, and when the contracts for any such work are awarded, any such statement with the maps, plans and specifications, and all other papers relating to such work, and which may be necessary to identify the plan and extent of the work embraced in such contract, shall be filed in the office of the state engineer, with a certificate of the superintendent of public work stating the time and place of their exhibition. No alterations shall be made in any such map, plan or specification, or the plan of any work under contract during its progress, except with the consent and approval of the superintendent of public works and the state engineer, nor unless a description of such alteration and such approval be in writing and signed by the parties making the same, and a copy thereof filed in the office of the state engineer. No change of plan or specification which will increase the expense of any such work, or create any claim against the state for damages arising therefrom, shall be made, unless a written statement setting forth the object of the change, its character, amount and the expense thereof is submitted to the canal board and their assent thereto at a meeting when the state engineer was present, is obtained."

This section 6 requires the State Engineer, among other things, to make maps, plans and specifications for the work to be done. Plans were made for the construction of the Barge canal opposite claimant's property in 1907. The first plan proposed a building of a wall which would serve as an underpinning for part of the westerly wall of claimant's mill, and the easterly wall of the canal. (State Exhibit 106-A., B., C., D., being Sheets 1, 5, 32 and 35 of Map accompanying Contract No. 35.)

The easterly line of land to be used for the Barge canal, as shown by this map, was the easterly blue line of the old canal and did not purport to include any of claimant's property. The plan of making the easterly wall of the canal, the westerly wall and underpinning of claimant's property was eliminated, as shown

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by Sheet No. 32, of Exhibit 106. These plans as shown by Sheets 1, 5, 32 and 35 of Exhibit 106, were approved by the Canal Board on May 28, 1907, and filed in the office of the Superintendent of Public Works June 25, 1907, and as approved and filed did not interfere with the claimant's property, but put the canal westerly of it. Contract No. 35, for the construction of the canal adjacent to claimant's property, was made September 16, 1907. In this contract the plan of underpinning claimant's property was eliminated.

The State Engineer made the map, plans and specifications which accompanied, and were a part of Contract No. 35. The construction of the canal at that point leaves the towpath of the old canal westerly of claimant's property, and the easterly bank of the Barge canal is about twelve feet westerly of claimant's property. The State has not, and will not, in the construction of the Barge canal occupy or use any of the property of claimant described in the notice of appropriation served upon the claimant. The claimant's property is useless to the State for the purposes of the Barge canal, and never was necessary for that purpose.

Contract No. 35 was let in September, 1907. Work was in progress under this contract at the time of the alleged appropriation. I do not think that section 6 should be held to apply only and solely to the work to be done. It has a broader interpretation. It includes the general plan of construction under the contract in every sense, and was intended to protect the State from unauthorized changes in the plans after a contract had been made and work was in progress under it. Any change of plan which would increase the expense of any such work, or create any claim against the State for damages arising therefrom, could not be made after the contract had been executed and work begun under it, except in the manner provided by law, which required the approval of the Canal Board at a meeting when the State Engineer was present. The alleged appropriation of claimant's property was in January, 1908.

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I am of the opinion that this was a change in the plan of constructing the canal, as it existed when Contract No. 35 was made and work commenced. The plan when this contract was let did not contemplate or provide for the taking of any of claimant's property, and the plan of construction was outside of, and west-erly of claimant's property. If the plans approved in May, 1907, by the Canal Board, did not contemplate the taking of claimant's property, then the taking of claimant's property for the purposes of this work under Contract No. 35, must have been a change or alteration of the plans first made and under which work was in progress. This change or alteration never was approved or assented to by the Canal Board. When the Superintendent of Public Works became acquainted with the fact, and knew of this alleged appropriation, he disapproved of the same, and the Canal Board, so far as it was in their power, repudiated the change of plan in taking claimant's property.

This change certainly increased the expense of the work and created a claim against the State for damages arising therefrom. This claim under consideration for over one million (\$1,000,000) dollars arises from such change.

The claimant had notice that the Canal Board did not approve of the taking of this property while the mill was still in operation, and some portions of the mill were operated for a year and a half after the alleged appropriation.

Great force is given by claimant to section 4 of the Canal Law giving the State Engineer the power to take possession of, enter upon, and use for the purposes of the canal, such lands, structures and waters as shall in his judgment be necessary.

The State has no power to appropriate the private property of a citizen beyond the necessities of the work proposed, and could not delegate to any officer or agent a power it did not possess.

The fact that the Barge canal is being constructed *entirely* outside of any of claimant's property is conclusive proof to my mind that the taking of this property was not necessary for the purposes of this work.

The judgment of the State Engineer in appropriating property

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must be exercised in good faith, and with sound discretion. (*Jerome v. Ross*, 7 Johns. Ch. 315.)

In this case the plans had been made, contract let, and work in progress under which claimant's lands were not to be interfered with. It is true, there was some discussion as to taking a part of claimant's property upon which to construct a wall which was to serve as an underpinning for a portion of the west wall of claimant's property, and to form the easterly wall of the canal, but this proposition was eliminated before the contract for the work was made.

What was there to call for the exercise of any judgment on the part of the State Engineer as to the taking of claimant's property? The work was progressing, and has since progressed, and will be completed without the necessity of using any of claimant's property. These lands were not needful or conducive to the prosecution of this work.

I am of the opinion that the State Engineer could not at the time this alleged appropriation was made make any appropriation which would change the plan of Contract No. 35, increase the expense under it, or create a claim against the State without the approval of the Canal Board. The claim should be dismissed.*

* This judgment was affirmed in 147 App. Div. 316. The Court of Appeals affirmed the judgment in 205 N. Y. 409, on two grounds. One of these grounds was not discussed or relied upon in any way by the Court of Claims. The certificate that the land described on the appropriation map had been permanently appropriated by the state, was made by a Special Deputy State Engineer. In this connection the Court of Appeals held: (See paragraph 2 of the headnote.)

"2. By the provisions of section 4 of chapter 365 of the Laws of 1906, amending chapter 147, Laws of 1903, the state engineer was authorized to take possession of such lands for the purposes of the barge canal as 'shall in his judgment be necessary.' This power was delegated to him by the people of the state in electing him to the position, and it is his judgment and discretion that they rely upon in exercising the functions of his office. He cannot delegate such power to a subordinate appointee unless he is in plain terms authorized so to do by the legislature. The act was not intended to invest a special deputy provided for thereby with the judgment, powers and discretion of the engineer with reference to the appropriations of lands of others for canal purposes; hence the certificate of such deputy that the lands therein

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Claim No. 9727.

Fixtures as between State and Claimant.

Where the State appropriated land upon which there was a factory and an engine and derrick resting upon substantial foundations, all of which were used in connection with the business conducted on the property, *Held*, that the State could not take the bare land and subject the owner to the loss of the depreciation of such structures and machinery as he had placed upon it; that the rule that applied is that which obtains between vendor and vendee, which is that a purchaser of the property would have acquired the engine and derrick with the building as a part of the plant; that there was such an annexation and adaptability of the property as to constitute the engine and derrick a part of the realty; that they were securely attached to the freehold and were used in connection with the business; that they were a part of the plant and essential to the operation thereof and could not be removed except with such a depreciation in value as would amount to an appropriation without just compensation.

(Decided October 11, 1910.)

Thomas A. Kirby, for the claimant.*The Attorney-General*, for the State.

RODENBECK, J. The State of New York appropriated from the claimant certain land situate at Eagle Harbor, Orleans county, New York, upon which he had constructed a factory for the manufacture of fertilizer and used in connection therewith an engine house in which there was a ten horse-power double cylinder, single drum engine and a derrick.

The engine rested upon a foundation of concrete which was about 4½ feet thick sunk in the earth and was connected by

described have been appropriated for the use of the canals of the state is insufficient."

Secondly, the Court of Appeals also affirmed the judgment of the Court of Claims on the following ground: (See paragraph 3 of the headnote.)

"3. Under the statute no plans for the construction and improvement of the canals can be adopted except by the approval of the superintendent of public works and the canal board. Lands for canal purposes cannot be taken by the engineer until the canal lands have been located by the canal board and the plans for its improvement have been approved; hence the state engineer, in making a change in the plans and specifications for the canal which not only increases the expense of the work but creates a claim against the state under which the claimant demands upwards of a million dollars in damages, exceeded his authority and such acts are void."

* Reported in 69 Misc. 295; 127 N. Y. Supp. 260.

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means of six three-quarter-inch bolts four feet six inches long with metal bars laid on the bottom of the concrete, the concrete covering the bottom flange of the engine base. The derrick was set up in the earth and was supported by five steel guys the lower end of each being anchored to a beam buried in the ground. Both the engine and derrick were used for a number of years in connection with the business carried on by the claimant upon the property in the manufacture of fertilizer, the derrick being employed to transport material from the canal boats into the building, the power being furnished by the engine.

The State at the close of claimant's case offered in evidence and conceded that the claimant was entitled to an award of \$3,000 if the engine and derrick were fixtures so that the only question presented is whether or not the engine and derrick formed a part of the realty.

The law of fixtures which applies to this case is an attempt to protect the interests of those having a lesser estate than a freehold in land. In the early history of English jurisprudence there was no such thing as a fixture. The relationship of the owner and occupier of the soil did not recognize it under the system of land tenures then prevailing. The tenant was considered as a mere agent of the owner and this relationship was not subject to contract. Whatever the occupier placed upon the soil belonged to the owner but as society advanced and the commercial spirit developed, modifications crept in to protect the interests of those who made improvements upon land for purposes of trade or business. The change from personalty to realty was determined by the manner and extent to which property became attached to the freehold. If it was firmly or permanently attached so that its removal would injure the freehold it was regarded as having changed its character from personal property and to have become a part of the realty. This rule however did not work out satisfactorily in all cases since in many business enterprises fixtures are required to be substantially and firmly attached to the freehold. This rule may now be stated as follows:

“As between landlord and tenant, the placing of machinery or other appliances by the tenant upon the leased premises, for the purpose of trade or

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manufacture to be carried on by the tenant, does not make the property so affixed a part of the freehold, but it still remains personalty, to such an extent at least that the tenant retains the right to remove it." (p. 279.) *Massachusetts Nat. Bank v. Shinn*, 18 A. D. 276; *Moore v. Wood*, 12 Abb. Pr. 393.

An additional element in determining the character of the attached property was introduced and the question of the purpose for which the property had been affixed to the realty was examined. In *Berliner v. Piqua Club Assn.*, 32 Misc. 470, Mr. Justice Russell says:

"The courts have advanced in the last half century from the inspection as to how firmly articles have been attached to the realty, in the ascertainment as to whether they pass with it by conveyances, to the more important consideration of union in usefulness for the purposes of the structure and permanence of the association." (p. 472.)

In the later cases however greater stress is placed upon the intention of the parties and the inquiry now is, what was the relation of the parties and what did they intend when the personal property was attached to the realty. Washburn says in his work on Real Property:

"Whether a fixture becomes a part of the land and therefore realty,—‘real fixture,’—or remains personalty,—‘chattel fixture,’—depends, according to the prevailing American doctrine, upon the reasonable intention of the annexor at the time of the annexation. This intention is to be inferred from the nature, intended use, and mode of annexation of the fixture; the situation of the annexor and his relation to the fee; and the policy of the law." (6th Ed., Vol. 1, p. 4.)

In *McRea v. Central National Bank*, 66 N. Y. 489, Judge Rapallo says:

"But, as between vendor and vendee, the mode of annexation is not the controlling test. The purpose of the annexation, and the intent with which it was made, is in such cases the most important consideration. The permanency of the attachment does not depend so much upon the degree of physical force with which the thing is attached as upon the motive and intention of the party in attaching it. If the article is attached for temporary use with the intention of removing it, a mortgagee cannot interfere with its removal by the mortgagor. If it is placed there for the permanent improvement of the freehold he may." (p. 495.)

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Cyc says:

"Indeed, it is sometimes said that the intent of the party annexing an article to the freehold is the most important criterion of its character as a fixture, and other circumstances or facts are valuable chiefly as evidence of such intention." (16 Cyc., p. 1046.)

Parties may by express agreement fix the character of the personal property more or less substantially affixed to the freehold and in such a case the problem is easy of solution.

"By agreement between the owner of personal property and the owner of realty, made before annexation, the personal property may be made to retain its status after annexation, or an enforceable right to remove it may be conferred upon the former owner of the personal property. The agreement may be by parol. Such an agreement, or an intention that the chattel shall remain personalty, may be implied from the circumstances under which the chattel is bought and affixed, as from a conditional sale, from a lease of a chattel, or from a chattel mortgage by the buyer to the seller, prior to and in some states subsequent to the annexation." (16 Cyc., p. 1048.)

But where there is no express agreement all the facts must be examined for the purpose of arriving at the unexpressed intention, and in arriving at this intention the relationship of the parties whether that of vendor and vendee, mortgagor and mortgagee, landlord and tenant (*Moore v. Wood*, 12 Abb. Pr. 393), must be considered. The rule as between landlord and tenant is the more liberal and that between the mortgagor and mortgagee (*McFadden v. Allen*, 134 N. Y. 489), condemnor and condemnee is the same as that between vendor and vendee. The manner of annexation will be considered as one of the elements in arriving at this intention and sometimes slight annexation will be considered sufficient to indicate an intention to transform the property from personalty to realty. In *Hart v. Sheldon*, 34 Hun 38, Mr. Justice Barker says:

"Mere intention to make an article personal a fixture, without annexation to the realty, will not make it one, but when such an intention does exist in the mind of the owner of the land and of the article, then the slightest affixing will make it a part of the freehold. Such intention often becomes the controlling fact in determining the question whether, in law, the article in dispute is or is not a fixture." (p. 42.)

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Where these circumstances are such that a slight annexation is not sufficient to determine the question then the purpose for which the property was brought upon the realty and annexed thereto will be examined into. And where there is a unity of all these three elements, annexation, adaptability and intention, the law uniformly recognizes the property as part of the freehold.

Bronson on Fixtures says:

“It may be stated that the primary test which is applied at the present day, in order to ascertain whether a fixture is removable or not, is the intention of the parties. This may be expressed, or it may be implied from the nature and character of the article annexed, the mode of annexation, the purpose and use to which the article is put, and the effect of its removal upon the freehold. It is interesting to note the development of this idea of intention in determining a fixture. Under the rule in its original conception, the intention of the parties was no factor. A thing annexed to the freehold became absolutely, *ipso facto*, a part and parcel thereof, no matter what was the intention of the parties. But under the exception first made in respect to trade fixtures, the intention of the party when making the annexation was really the basis of his right, in being permitted, at the end of his term, to remove the fixture. This intent was shown from the purpose of the annexation. The annexation was made to assist him in carrying on his trade operations, not to improve the freehold. Likewise, when a subsequent exception was made in favor of ornamental and domestic fixtures, the intention of the parties was equally the basis of the right established. But here, not the purpose of the annexation showed the interest; rather the nature and character of the thing itself, together with its mode of annexation, and the effect of its removal. The intention of the parties, then, being the real test of the rights established under the exceptions, it follows, therefore, that the exceptions simply differ among themselves in the mode of ascertaining this intent; and since the exceptions mentioned are so broad in their scope as to include often within their boundaries fixtures that might properly be termed ‘agricultural fixtures,’ so as to considerably lessen the application of the common law rule, therefore it can be readily seen that the extension of the test of intention to all fixtures would necessarily be the next progressive step in abrogating the old common law rule. Such is the present tendency of the courts.” (§ 15.)

In this case I think there was such an annexation and adaptability of the property as to constitute the engine and derrick real estate in this proceeding. They were securely attached to the freehold and were used in connection with the business of manufacturing fertilizer. They were a part of the plant as essential to its operation as the building itself and like the build-

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ing could not be removed except with such depreciation in value as would amount to an appropriation of the property without just compensation. The rule that applies is that which obtains between vendor and vendee and a purchaser of the property for the purpose of carrying on the business would surely have acquired the engine and derrick with the building as a part of the plant.

In *Matter of Mayor, etc., of New York*, 39 A. D. 589, in speaking of the rule of fixtures between vendor and vendee, Judge Rumsey says:

“The same rule exists in proceedings to take land under the right of eminent domain, and the commissioners of estimate have no right to restrict the assessment to the simple value of the land, compelling the owner to retain the fixtures on the premises, and exempting the city from an obligation to take and pay for them as a part of the land. (*Schuchart v. Mayor*, 53 N. Y. 202, 208.) Whatever has been put upon the land by the owner with the intention that it should remain upon the land and was essential to the use which he made of it, is, generally speaking, as between himself and his vendee, a fixture, and goes with the land when he shall sell it.” (p. 595.)

When the land is in the possession of a tenant who has erected buildings under a stipulation that they may be removed at the end of the lease the buildings are to be treated as a part of the realty. (*In re Appointment of Park Com'rs*, 1 N. Y. Sup. 763.) In *Matter of City of New York (North River Water Front)*, 118 A. D. 865, Mr. Justice Ingraham says:

“As between landlord and tenant the tenant is allowed to remove fixtures annexed to the freehold, but it is only as between landlord and tenant that the rule of the common law, that anything that was annexed to the freehold by a substantial connection becomes a part of the realty has been relaxed. The city is not the landlord, and as against the tenant has not acquired the landlord's rights, but is taking this property against the wish of both the landlord and the tenant for its own purposes. The rule that exists as between landlord and tenant, which has been evolved by the courts to prevent injustice to the tenant, should not be applied so that a beneficial use of the property is taken from the tenant without making him a fair compensation for the property as a whole.” (p. 867.)

The rule is even more liberal when the additions were trade fixtures. (*Matter of City of New York (North River Water Front)*, 192 N. Y. 295.) The tenant may surrender to the lessor

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a part of his claim and reserve a part. (*Matter of City of New York (North River Water Front)*, 193 N. Y. 117.) The State of course does not purpose to carry on the fertilizer business but it cannot take the bare land and subject the owner to the loss of the depreciation of such structures and machinery as he had placed upon it.

Hop poles necessarily used in cultivating the crop have been held to be a part of the realty as between mortgagor and mortgagee though severed from the land. (*Bishop v. Bishop*, 11 N. Y. 123.) A statue erected as an ornament to grounds has been held to be a part of the realty as between a mortgagor and mortgagee although it is not fastened to the base on which it stands and can be removed without fracture. (*Snedecker v. Warring*, 12 N. Y. 170.) In the same case a sundial constructed on a block of similar stone erected as an ornament to grounds has been held to be a part of the realty. (*Snedecker v. Warring*, 12 N. Y. 170.) Theater chairs screwed to the floor have been held to be a part of the realty (*Gross v. Jackson*, 6 Daly 463.) A portable grist mill fastened to the floor by iron rods and bolts and attached to the other machinery in the building by a belt has been held to be a part of the realty and to pass by a sheriff's deed to a purchaser. (*Potter v. Cromwell*, 40 N. Y. 287.) Boilers, engine shafting and gearing, etc., substantially connected with a saw and grist mill have been held to be a part of the realty and to pass to the purchaser by a foreclosure sale. (*Voorhees v. McGinnis*, 48 N. Y. 278.) Machinery in a twine factory fastened to the floor by bolts, nails or cleets and attached to the gearing complete in themselves and removable without material injury to them or to the building have been held to be a part of the realty. (*McRea v. Central Natn'l Bank of Troy*, 66 N. Y. 489.) Mirror frames, set in places left in the walls fastened by hooks and screws, the removal of which would have left the walls unfinished, have been held to be a part of the realty and subject to a mechanic's lien. (*Ombony v. Jones*, 19 N. Y. 234; *Watts-Campbell Co. v. Youngling*, 125 N. Y. 1; *Ward v. Kilpatrick*, 85 N. Y. 413.)

A combined engine and boiler on six wheels, resting upon the

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ground and not in any way annexed or fastened to the building and removable without injury to the building, has been held to be a fixture as between a mortgagor and mortgagee. (*Hart v. Sheldon*, 34 Hun 38.) A derrick, with other machinery used in connection with the operation of a stone quarry and fastened to the ground, was held to be a part of the realty as between a mortgagor and mortgagee. (*Speiden v. Parker*, 46 N. J. Eq. 292.)

These cases, examined in the light of the facts of the case at bar, seem to warrant the conclusion that the engine and derrick should be considered as a part of the land appropriated and to entitle the claimant to an award of \$3,000 besides interest from the date of the appropriation.

APPENDIX IV

**Laws of 1915 re-establishing the Court of Claims
and amending the Code of Civil Procedure with
respect thereto.**

LAWS OF 1915
RE-ESTABLISHING
THE COURT OF CLAIMS
AND AMENDING
THE CODE OF CIVIL PROCEDURE
WITH RESPECT THERETO

CHAPTER 1

AN ACT to amend the code of civil procedure, in relation to re-establishing the court of claims, authorizing the temporary appointment of not exceeding two additional judges to expedite the work of the court and defining the procedure and jurisdiction of such court.

Became a law January 28, 1915, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections two hundred and sixty-three, two hundred and sixty-four, two hundred and sixty-five, two hundred and sixty-six, two hundred and sixty-eight, two hundred and seventy-nine and two hundred and eighty of the code of civil procedure are hereby amended to read, respectively, as follows:

§ 263. **Court of claims.** The board of claims is hereby abolished and the court of claims re-established. Such court shall consist of three judges, to be known as judges of the court of claims, who shall be appointed by the governor, by and with the advice and consent of the senate. The judges first appointed shall be appointed for terms of three, six and nine years, respectively, from the first day of January of the calendar year in which such appointments shall be made. Thereafter the full term of office of each judge shall be nine years. Whenever the term of office of

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a judge shall expire, or his office become vacant from any cause, his successor shall be appointed for the unexpired term. Notwithstanding the provisions of section five of the public officers law, a judge of the court of claims shall hold over and continue to discharge the duties of his office, after the expiration of the term for which he shall have been chosen, until his successor shall be chosen and qualified, but after the expiration of such term the office shall be deemed vacant for the purpose of choosing his successor. By an order to be filed in the office of the secretary of state, the governor shall designate one of the judges as presiding judge, who shall act as such during his term, and thereafter upon the appointment of his successor, the governor shall designate such successor or any other judge of the court as presiding judge, who shall act as such during his term. The office of commissioner of claims is hereby abolished, but the commissioners now in office shall continue to have the powers and duties of commissioners of claims until the appointment and qualification of judges of the court of claims, except that after this section as amended takes effect and until the appointment and qualification of judges of the court of claims they shall not hear, try or determine any claim, or entertain a motion or make an order affecting the substantial rights or* a party. During the period of three months, after the first appointment and qualification of judges hereunder, such commissioners shall have power to determine and dispose of questions, claims and matters which shall have been finally submitted to and heard by such board on or before January twenty-third, nineteen hundred and fifteen, in the same manner and with the same effect as if such board had not been abolished. Such commissioners shall for their services rendered during such period of three months receive compensation at the rate of five hundred dollars per month. A judge of the court of claims, appointed under the provisions of this section, as amended, must be an attorney and counselor-at-law admitted to practice in the courts of this state, of at least ten years' experience in practice. A judge shall not during his term of office practice the profession of law, or act as referee in any action or proceeding in any court of this

* So in original.

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state. A judge shall not hold any other office or public trust to which any salary or compensation is attached, nor serve as a member of any political committee. Except as herein otherwise provided, the judges appointed under this section shall have jurisdiction to hear and determine all matters pending in the court of claims at the time they shall take office, and all matters pending in the board of claims at the time when this section, as amended takes effect, shall be heard and determined by the court of claims. But if any matter or claim be left undisposed of by the commissioners of claims, the court of claims shall have jurisdiction thereon. Whenever in this act or in any other statute, heretofore enacted or enacted at the legislative session of the year nineteen hundred and fifteen, reference is made to the board of claims or any officer thereof, the same shall be deemed to refer to and mean the court of claims or an officer thereof. A determination of the board of claims, heretofore rendered shall have the same force and effect and be subjected to the same procedure as provided in this article for a judgment.

§ 264. **Jurisdiction.** The court of claims possesses all of the powers and jurisdiction of the former board of claims. It also has jurisdiction to hear and determine a private claim against the state, including a claim of an executor or administrator of a decedent who left him or her surviving a husband, wife or next of kin, for damages for a wrongful act, neglect or default, on the part of the state by which the decedent's death was caused, which shall have accrued within two years before the filing of such claim and the state hereby consents, in all such claims, to have its liability determined. It may also hear and determine any claim on the part of the state against the claimant, or against his assignor at the time of the assignment, and must render judgment for such sum as should be paid by or to the state. But the court has no jurisdiction of a claim submitted by law to any other tribunal or officer for audit or determination except where the claim is founded upon express contract and such claim, or some part thereof, has been rejected by such tribunal or officer. In no case shall any liability be implied against the state, and no award shall be made on any claim against the state except upon such legal

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evidence as would establish liability against an individual or corporation in a court of law or equity. No claim other than for the appropriation of land shall be maintained against the state unless the claimant shall within six months after such claim shall have accrued, file in the office of the clerk of the court of claims and with the attorney-general a written notice of intention to file a claim against the state, stating the time when, and the place where such claim arose and in detail the nature of the same, which notice shall be signed and verified by the claimant before an officer authorized to administer oaths. The attorney-general may require any person filing such a notice of claim for any cause whatever against the state to be sworn before him or one of his deputies designated by him for that purpose within the county of the claimant's residence, relating to such claim, and when so sworn, to answer orally as to any facts relative to the justness of such claim. Willful false swearing before the attorney-general or deputy attorney-general is perjury and punishable as such. Provided further, that nothing herein contained shall be construed to allow the court to hear any claim which as between citizens of the state would be barred by lapse of time or of any claim heretofore accrued and of which the said court or board has had jurisdiction and which was barred by lapse of time at the date when this section, as amended, takes effect. Provided further, that the court shall have jurisdiction, and may hear and determine all claims accrued and actually filed at any time prior to September first, nineteen hundred and twelve, and filed within two years from the time they accrued, though no notice of intention to file was given, as required by this section, if such claims when filed were not barred by lapse of time and the court or board had jurisdiction and authority to hear and determine the same except for the lack of such notice; and such jurisdiction shall attach without refileing or previous notice.

§ 265. **Rules and procedure.** The court may establish rules for its government, and the regulation of practice therein; prescribe the forms and methods of procedure before it, vacate or modify judgments and grant new trials, and except as otherwise provided in said rules and regulations, or the code of civil pro-

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cedure, the practice shall be the same as in the supreme court. Rules of the board of claims or former court of claims, now in force, shall continue to be the rules of the court of claims until changed by such court.

§ 266. **Officers.** The court of claims shall appoint and may at pleasure remove, a clerk, a stenographer, and an attendant, who shall also act as messenger; and they shall perform such duties as the court may prescribe. Before entering upon the duties of his office, the clerk shall make and file in the office of the comptroller, a bond for the faithful performance of his duties in an amount and with sufficient sureties to be approved by at least two of the judges, which approval shall be endorsed on said bond. The court may also appoint such other employees as may be needed. The clerk and stenographer appointed by the board of claims are continued as such officers and employees of the court of claims until the appointment and qualification of their successors.

§ 268. **Sessions; duty of sheriff.** The court shall hold at least eight sessions each year, and unless otherwise ordered by the court shall be held as follows: On the fourth Monday of January at the city of Albany; on the third Monday of February at the city of Syracuse; on the fourth Monday of March at the city of Utica; on the fourth Monday of April at the city of Albany; on the fourth Monday of May at the city of Rochester; on the third Monday of June at the city of Buffalo; on the fourth Monday of September at the city of Albany; on the fourth Monday of November at the city of Albany, and it may also hold adjourned or special sessions at such other times and places in the state as it may determine. It may also hold a session and take testimony where the claimant resides or where the claim is alleged to have arisen, or in the vicinity, and may view any premises affected by the proceedings, and in case of any appropriation of land by the state, the value of which shall exceed five hundred dollars, it shall be the duty of the court to view the premises affected by the appropriation. The sheriff of any county, except Albany, shall furnish for the use of the court suitable rooms in the court house of his county for any session ordered to be held thereat and shall if required attend said

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session. His fees for attendance shall be paid out of the contingent fund of the court at the same rate as for attending a term of the supreme court in that county.

A session of the court may be conducted and testimony and proof taken and arguments heard thereat, by one or more judges to be designated by the presiding judge; but no determination or judgment of the court shall be rendered except upon the concurrence of at least two of the judges of the court after an examination of the record of the testimony, proceedings and proofs. Not more than three judges shall sit in any case.

Adjourned or special sessions of the board of claims heretofore designated to be hereafter held, shall be held as sessions of the court of claims unless such court shall cancel such designations.

§ 279. **Salaries and expenses of judges.** Each judge of the court of claims shall receive an annual compensation of eight thousand dollars, payable monthly, and all actual and necessary traveling and other expenses and disbursements incurred or made by them in the discharge of their official duties elsewhere than in Albany, payable monthly, by the state treasurer on the audit and warrant of the comptroller.

§ 280. **Salaries of officers of court of claims.** Each officer of the court of claims shall receive an annual salary, payable monthly, and other compensation as follows:

1. The clerk, three thousand dollars.
2. The stenographer, who shall also be deputy clerk, two thousand five hundred dollars and five cents a folio for copies of minutes and testimony furnished at the request of the claimant.
3. The attendant, including his services as messenger, twelve hundred dollars.
4. The clerk, stenographer and attendant shall be paid their actual expenses while in the discharge of their respective duties, elsewhere than in the city of Albany, to be audited by the court and paid from the contingent fund. No charge shall be made against the state by the clerk or the stenographer for copies of minutes, testimony or papers, furnished to the attorney-general or to the court or filed in the office of the clerk.

§ 2. Article one of title three of chapter three of the code of

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civil procedure is hereby amended by adding at the end thereof a new section, to be section two hundred and eighty-two, to read as follows:

§ 282. **Additional judges.** The number of judges to constitute the court of claims may be increased to not more than five as provided by this section. If the attorney-general shall at any time certify to the governor in writing that the accumulation of business in the court of claims requires for the disposal thereof an additional judge or judges, specifying the number, not more than two, the governor may appoint, by and with the advice and consent of the senate, such additional judge or judges, each of whom shall be an attorney and counselor-at-law, admitted to practice in the courts of this state of at least ten years' experience in practice. The terms* of any such additional judge shall expire January first, nineteen hundred and eighteen. If a vacancy shall occur otherwise than by expiration of term in the office of any such additional judge, his successor shall be appointed by the governor, by and with the advice and consent of the senate, for the unexpired term of his predecessor in office. If at any time prior to January first, nineteen hundred and eighteen, it appears to the satisfaction of the governor that the necessity for having any such additional judge no longer exists, he may file a certificate to such effect in the office of the secretary of state and thereupon the term of such additional judge shall expire. Such an additional judge shall, during his term of office, receive the same compensation and be allowed his expenses, payable at the same time and in the same manner as a judge of the court of claims. Except as herein provided the provisions of section two hundred and sixty-three relating to judges of the court of claims shall apply to any such additional judge.

§ 3. This act shall take effect immediately.

* So in original.

CHAPTER 100

AN ACT to amend the code of civil procedure, in relation to the court of claims and the judges thereof.

Became a law March 19, 1915, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections two hundred and sixty-eight and two hundred and eighty of the code of civil procedure, are hereby amended to read, respectively, as follows:

§ 268. **Sessions; duty of sheriff.** The court shall hold at least eight sessions each year, and unless otherwise ordered by the court shall be held as follows: On the fourth Monday of January at the city of Albany; on the third Monday of February at the city of Syracuse; on the fourth Monday of March at the city of Utica; on the fourth Monday of April at the city of Albany; on the fourth Monday of May at the city of Rochester; on the third Monday of June at the city of Buffalo; on the fourth Monday of September at the city of Albany; on the fourth Monday of November at the city of Albany, and it may also hold adjourned or special sessions at such other times and places in the state as it may determine. It may also hold a session and take testimony where the claimant resides or where the claim is alleged to have arisen, or in the vicinity, and may view any premises affected by the proceedings, and in case of any appropriation of land by the state, the value of which shall exceed five hundred dollars, it shall be the duty of the court, or the judge or judges hearing the claim, to view the premises affected by the appropriation. The sheriff of any county, except Albany, shall furnish for the use of the court suitable rooms in the court house of his county for any session ordered to be held thereat and shall if required attend said session. His fees for attendance shall be paid out of the contingent fund of the court at the same rate as for attending a term of the supreme court in that county.

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A session of the court may be conducted and testimony and proof taken and arguments heard thereat, by one or more judges to be designated by the presiding judge; but no determination or judgment of the court shall be rendered except upon the concurrence of at least two of the judges of the court. Not more than three judges shall sit in any case.

Adjourned or special sessions of the board of claims heretofore designated to be hereafter held, shall be held as sessions of the court of claims unless such court shall cancel such designations.

§ 280. **Salaries of officers of court of claims.** Each officer of the court of claims shall receive an annual salary, payable monthly, and other compensation as follows:

1. The clerk, three thousand dollars.
2. The court stenographers, who shall also be deputy clerks, two thousand five hundred dollars and five cents a folio for copies of minutes and testimony furnished at the request of the claimant.
3. The attendant, including his services as messenger, twelve hundred dollars.
4. The clerk, court stenographers and attendant shall be paid their actual expenses while in the discharge of their respective duties, elsewhere than in the city of Albany, to be audited by the court and paid from the contingent fund. No charge shall be made against the state by the clerk or the stenographers for copies of minutes, testimony or papers, furnished to the attorney-general or to the court or filed in the office of the clerk.

§ 2. The provisions of section two hundred and sixty-three of the code of civil procedure, as amended by chapter one of the laws of nineteen hundred and fifteen, in relation to the qualification of judges of the court of claims, shall not prevent a judge of such court from serving as a member of a constitutional convention and receiving the salary or compensation attached to such office.

§ 3. This act shall take effect immediately.

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AWARD.

The evidence of damages is to guide and not to control the court in arriving at its award, and where witnesses on the part of the owner testify that certain water power is worth \$34,000 and witnesses on behalf of the State testify that it is worth nothing, the court may make such an award between these estimates as it may deem proper. *Hall v. State*, 11 C. C. 109.

The principles of law underlying the cases where there is a lien or incumbrance on property that is subsequently appropriated seems to be that when the owner of land is divested of title by condemnation proceedings that moment he loses his land but becomes entitled to a right to damages which is personal and does not run with the land; that he may transfer this right to damages as any other personal right may be transferred subject to existing liens; that the right to damages will not pass by a deed which does not in terms include the damages; that an award

* This index is a cumulative index to the opinions of the Court of Claims not only published in this volume but also in volumes 11, 12 and 13 of the Court of Claims Reports.

takes the place of the land so far as underlying liens are concerned and the liens constitute an equitable claim upon the award; that a purchase under a foreclosure of liens acquires no claim to the award and if there is a deficiency it constitutes an equitable claim against the award to the extent of the deficiency; that any surplus remaining after the payment of the underlying liens or any deficiency or their foreclosure goes to the owner. *McKee v. State*, 13 C. C. 220.

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Where a claimant alleges that his crops were flooded and destroyed by negligence of the State in carelessly and negligently emptying water into the Black river from Forestport feeder, and also alleges that the flooding was partly caused by placing flash boards on the State dam at Carthage, the burden is upon the claimant to prove that the acts were committed by the State. *Van Amber v. State*, 12 C. C. 68.

Where premises in a somewhat deteriorated condition are flooded through the negligent acts of the State causing damages to the structures and a loss of rents, the owner of the premises is entitled to the cost of making reasonable repairs to put his premises in a tenantable condition and to the loss of rents occasioned by the negligent acts of the State. In such a case the owner is not entitled to the diminution in the market value of the premises in addition to the cost of making repairs and the loss of rents. *Stevens v. State*, 13 C. C. 111.

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BRIDGES.

Where the State constructed a bridge over the canal which was abandoned except for drainage purposes by the State and did not provide a railing, which resulted in the claimant walking off the bridge into the canal without any negligence on her part, the State is liable. *Van Alstyne v. State*, 11 C. C. 157.

Where the town of Lenox owned two bridges known as Peterboro and Main street bridges spanning a State ditch used for conveying surplus.

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water from the Erie canal to Oneida lake, the State negligently widened and deepened a creek which undermined the abutments of the bridges making their construction and the building of the bridges necessary and in such case the State is liable for its negligent acts. *Town of Lenox v. State*, 12 C. C. 159.

Where a temporary bridge is constructed while the work of constructing a permanent bridge is in progress the claimant may recover the cost of building such temporary bridge. Allowance should be made to the State for the value of any material in the old bridge appropriated by the claimant. *Town of Lenox v. State*, 12 C. C. 159.

Taft v. State, 13 C. C. 250.

The State is not liable for damages to abutting property for closing a canal bridge pending repairs where it appears that the repairs were made with reasonable dispatch considering the circumstances. *Kline v. State*, 15 C. C. 366

Under the provisions making the State liable only where upon the same facts an individual or corporation would be liable (*Canal Law*, § 47; *Code of Civ. Proc.*, § 264) the State is entitled to the benefit of the provisions of the *Highway Law* (*L. 1890*, ch. 560, § 154; *L. 1909*, ch. 30, § 331) relating to the load which town bridges are required to bear. *O'Bryan v. State*, 15 C. C. 295

Where the statute exempting a town from liability for the collapse of a bridge under a load of four tons or over (*L. 1890*, ch. 30, § 154) was amended by increasing the load to eight tons or over, the State has a reasonable time after the amendment takes effect to reconstruct its bridges to meet the requirements of the increased load and where an accident occurs 103 days after the amendment takes effect a reasonable time has not elapsed to charge the State with negligence for delay in reconstructing a bridge which fell with a load exceeding four and one-half tons. *O'Bryan v. State*, 15 C. C. 295

The State was held to be exempt from liability where an engineer undertook to drive over a canal bridge in a town a load weighing four and one-half tons and he was held to have assumed the risk in passing over the bridge where he had examined the bridge and after such examination reached the conclusion that it was safe and undertook to cross and went down with the bridge. *O'Bryan v. State*, 15 C. C. 295

See CATHERINE STREET BRIDGE, SYRACUSE; CHAPEL STREET BRIDGE, LOCKPORT; ERIE STREET BRIDGE, BUFFALO; EXCHANGE STREET BRIDGE, ROCHESTER; PLYMOUTH AVENUE BRIDGE, ROCHESTER; SALINA STREET BRIDGE, SYRACUSE; STATE STREET BRIDGE, BUFFALO; STATE STREET BRIDGE, SYRACUSE; TWENTY-THIRD STREET BRIDGE, WATERVLIET; WEST MAIN STREET BRIDGE, ROCHESTER.

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Where the State without legal right turns water upon the land of another causing all the damages and subsequently other water from natural sources mingles with those of the State, the State must respond for all of the damages as the sole source of damage.

Where all the damage to land occurs from natural causes resulting from the overflow of a creek the State is not liable for any damage though without legal right it mingles with the flood surplus water from the canal.

Where part of the damages resulting from flooding are occasioned by water which the State without legal right turns upon the land of another and part are due to the natural overflow of a creek, the State is liable only for such portion of the damages as it actually occasions. *Cook v. State*, 11 C. C. 128.

See CREEKS.

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CANALS.

Where the waters of a creek carry down dirt and gravel and form a bar at the mouth of the creek in the bottom of an abandoned canal. and in time of heavy rain the bar so formed causes the waters of this creek to back up and overflow claimant's property: *Held*, that the creek which overflowed being no part of the canal system of the State, without an enabling act, the Court of Claims had no jurisdiction of the claim. *Freer v. State*, 11 C. C. 9.

Where the State abandons a canal and adjoining owners obstruct the passage of water draining into it so as to cause the water to accumulate and percolate upon adjacent lands, a claim for damages should be dismissed upon the merits where drainage ditches upon the lands alleged to be damaged were allowed to become filled up. *Hughson v. State*, 11 C. C. 37.

Where a canal has been abandoned by the State and damages are occasioned by the use or nonuse which the State makes of the property, the claimant must point to some statute wherein the State has consented to assume a liability for its acts. *Hughson v. State*, 11 C. C. 37.

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The provisions of the Canal Law (§ 37), allowing claims to be filed by any person sustaining damages from the canals, do not apply to an abandoned canal, like the Chemung canal, not enumerated among the canals to which the Canal Law by section 2 is made to apply. *Hughson v. State*, 11 C. C. 37.

Where a side cut of a canal, although a part of the canal system, has become a nuisance and has actually come into disuse as a part of the canal system, the State may close it as an abandoned canal without rendering itself liable to those who have been using the side cut. The State Constitution prohibiting the sale of the canals extends only to the main trunk as originally constructed, enlarged, or extended and does not apply to a side cut which the State would have the right to close if necessary as a part of its plans for the improvement of the canals of the State. The State may close a side cut which forms no part of the canal system where it was built as a convenience to those owning property on either side of it and was not necessary for the navigation of the canals, although the Legislature assumed jurisdiction over the side cut by making appropriations for its improvement. *Lynch v. State*, 11 C. C. 122.

Prior to the enactment of the Canal Law (L. 1894, ch. 338) there was no provision of law requiring any map to be made or filed or served upon the property owner of lands to be appropriated by the State. *Miller v. State*, 15 C. C. 266

Prior to the Canal Law (L. 1894, ch. 338) the permanent appropriation of land was complete when the State took possession of the same and if no claim was made within a year after such appropriation the owner lost his interest in the property and the State acquired title in fee. *Miller v. State*, 15 C. C. 266

See *BARGE CANAL*; *BLACK RIVER CANAL*; *CAYUGA AND SENECA CANAL*; *CHAMPLAIN CANAL*; *CHEMUNG CANAL*; *ERIE CANAL*; *OSWEGO CANAL*; *CONTRACTS*.

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CATHERINE STREET BRIDGE (SYRACUSE).

Where a child six years of age was injured, while attempting to get upon a lift bridge which was being lowered, by having his foot caught between the roadway and the bridge, the State is chargeable with negligence, the flagman being absent at the time and the child being of such tender years as not to be chargeable with contributory negligence, and no negligence being attributable to the parents of the child. *Ten Eyck v. State*, 11 C. C. 149.

See *BRIDGES*.

CHAMPLAIN STONE AND SAND CO. v. STATE, 15 C. C. 181

CHAPEL STREET BRIDGE (LOCKPORT).

When a person who is riding in a carriage driven by another who drives the horse upon a lift bridge and the horse and carriage are thrown backward off the bridge and the person is injured, such person cannot recover against the State where it is shown that the customary warning signals were given before the bridge was raised, and while the carriage was upon the street approaching the bridge. The officers of the State had performed their duty in giving the signals and the State was not guilty of negligence. *Heard v. State*, 11 C. C. 205.

See BRIDGES.

CHEMUNG CANAL.

The provisions of the Canal Law (§ 37), allowing claims to be filed by any person sustaining damages from the canals, do not apply to an abandoned canal, like the Chemung canal, not enumerated among the canals to which the Canal Law by section 2 is made to apply. *Hughson v. State*, 11 C. C. 37.

See CANALS.

CHILDREN.

A boy of eight years held guilty of contributory negligence. *Bristol v. State*, 11 C. C. 14.

The State was held liable for injuries to a child of six years of age, no negligence being attributable to the child or his parents. *Ten Eyck v. State*, 11 C. C. 149.

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CHITTENANGO CREEK (MADISON COUNTY).

Where damages are claimed for the flooding of land due to the condition of a culvert which obstructed the flow of the water of a creek under the canal, some negligence on the part of the State in maintaining the culvert must be shown to warrant a recovery. Facts and circumstances justifying the dismissal of such a claim reviewed. *Lynch and ano. v. State*, 12 C. C. 270.

See CREEKS.

CLAIMS. *See JURISDICTION; CONSENT; CODE OF CIVIL PROCEDURE; ENABLING STATUTE.*

CLIFT, GEO. L., adm., etc. v. STATE, 13 C. C. 25.

CODE OF CIVIL PROCEDURE.

By section 264 of the Code of Civil Procedure the Court of Claims has jurisdiction to hear a private claim against the State, but it is likewise true that the sovereign power cannot be sued without its consent. No such consent is shown or pleaded in this claim. No claim in behalf of a citizen can be maintained against the State for injuries occasioned by the negligence or misfeasance of its agent except when it has by legislative enactment assumed such liability. That no enabling act having been passed by the Legislature conferring jurisdiction upon this court to hear and determine the claim of the claimant, the court has no jurisdiction to hear the same. *Dimmock v. State*, 11 C. C. 23.

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In order to authorize the consideration of a claim upon its merits by the Court of Claims it must appear not only that the court has had jurisdiction conferred upon it but that the State has consented to have its liability determined. *Quayle v. State*, 11 C. C. 44.

Nussbaum v. State, 11 C. C. 147.

Section 264 of the Code of Civil Procedure as amended in 1908 (chap. 519) confers jurisdiction upon the court over claims in tort constituting "private" claims against the State and grants the consent of the State to have its liability determined in the Court of Claims. *Burks v. State*, 13 C. C. 153.

The term "private" as used in section 264 of the Code of Civil Procedure conferring jurisdiction upon the Court of Claims is used as the antithesis of "public." *Burks v. State*, 13 C. C. 153.

An application to bring in a party under the authority of section 281 of the Code of Civil Procedure should be refused where it appears that the State makes no claim against the party and the party no claim against the State and the only issue being one between the party and the claimant. *Elmore & Hamilton Contracting Co. v. State*, 13 C. C. 401.

Where a statute conferring jurisdiction upon the court of claims provides that the court "has jurisdiction to hear and determine a private claim against the State" but that "the court has no jurisdiction of a claim submitted by law to any other tribunal or officer for audit or determination except where the claim is founded upon express contract and such claim or some part thereof has been rejected by such tribunal or officer" (Code of Civil Procedure, § 264), the language does not cover a claim like that of an erroneous or illegal state tax or assessment and does not authorize a submission of such a claim to this court.

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COFFERDAM. See DAM.

COLE, DAVID, and ano. v. STATE, 15 C. C. 285

COMMON CARRIER.

Where the State owned and maintained a reservation and operated an inclined railway exacting a fare for its use by passengers, it is to be treated in its relation to them as a common carrier and is bound to exercise more than ordinary care, and for the absence of such care it is liable, provided the claimant is free from contributory negligence. *Burks v. State*, 13 C. C. 153.

CONSENT.

The consent of the State to have its liability determined must be obtained before it can be sued. *Quayle v. State*, affirmed in part 124 A. D. 81; 192 N. Y. 47; 11 C. C. 44.

In order to authorize the consideration of a claim upon its merits by the Court of Claims it must appear not only that the court has had jurisdiction conferred upon it but that the State has consented to have its liability determined. *Quayle v. State*, 11 C. C. 44.

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The Court of Claims has no jurisdiction of a claim for services as counsel to the committee on privileges and elections of the Assembly where the State has not consented to have its liability determined by the court. *Nussbaum v. State*, affirmed 119 A. D. 755; appeal dismissed 190 N. Y. 542; 11 C. C. 147.

Consent of State granted in certain cases. Code of Civil Procedure, § 264, as amended by L. 1908, chap. 519.

See JURISDICTION.

CONSTITUTION.

Where a side cut of a canal, although a part of the canal system, has become a nuisance and has come actually into disuse as a part of the canal system, the State may close it as an abandoned canal without rendering itself liable to those who have been using the side cut.

The State Constitution prohibiting the sale of the canals does not apply to a side cut which the State would have the right to close if necessary as a part of its plans for the improvement of the canals of the State.

The State may close a side cut which forms no part of the canal system where it was built as a convenience to those owning property on either side of it and was not necessary for the navigation of the canals, although the legislature assumed jurisdiction over the side cut by making appropriations for its improvement. *Lynch v. State* 11 C. C. 122.

Article 6, section 12, construed. *See Earl v. State*, 13 C. C. 33.

Article 1, section 7. *See Perkins v. State*, 15 C. C. 282

CONSTRUCTION.

Where the State passed an enabling statute authorizing the Court of Claims to make an award that "shall be just and equitable notwithstanding the lapse of time since the accruing of such damages or any act or omission which might be deemed a bar to said claim," it thereby waived legal defenses and authorized the adjudication of the claim upon its merits. *Le Strange v. State*, 12 C. C. 249.

Where confusion exists as to the meaning of words used in the description contained in a grant which requires construction, it is usually resolved against the grantor, who is responsible therefor, as the words used are his own. This is especially so when it relates to a narrow strip, such as half of a street or stream much more valuable to the grantee than to the grantor, as the parties are supposed to have so dealt with the property as to bring out its greatest value. *Hinckley v. State*, 15 C. C. 95

It is the duty of the court in interpreting statutes to adopt such a construction as will harmonize existing laws, and in case of conflict to adopt such a construction as will be fair and equitable and not produce injustice to those who have acted in good faith under one of them, a construction which will produce the least public inconvenience and will not hamper the officials of the State in the proper discharge of their public duties when acting for the welfare of the State in the protection of its interests and for its benefit. *Kirby v. State*, 15 C. C. 246

See CONSTITUTION; CONVEYANCE; GRANT; STATUTES.

CONTRACT.

A subordinate officer of the State has no power or authority to vary or extend a written contract made between the State and a claimant. A local agent, architect, or division engineer is such a subordinate officer and has no power to vary a contract so as to bind the State. Where additional work or better material than the contract requires is ordered by a subordinate officer, compliance of a contractor must be regarded as voluntary service even though the State acquires the benefit by the change. Where one deals with a public officer he is bound to take notice of the scope and limitation of his authority. *Burgard v. State*, 11 C. C. 27.

Where contracts for State printing have been made and the State has not authorized the submission of its liability under such contracts to the Court of Claims, such consent will not be implied from the language of the Code of Civil Procedure conferring jurisdiction upon the court. *Quayle v. State*, 11 C. C. 44.

Where in the sale of certain real estate belonging to the State the claimant alleged that he procured a purchaser for the land in pursuance of an agreement of brokerage with the United States Loan Commissioners of the county of New York. *Held*, that the Loan Commissioners had no right to make such contract with the purchaser. *Mayer v. State*, 11 C. C. 197.

An enabling act (L. 1900, ch. 519) which permits the submission of a claim against the State to the court and authorizes an award notwithstanding any "act or omission which might be deemed a bar to such claim" waives the defense that the transaction between the claimant's firm and the State at the time of the firm's settlement of the contract amounted to an agreement whereby they adjusted their claim for extra work and also waives the defense that the extra work was not done pursuant to a written order as required by the contract. *Le Strange v. State*, 12 C. C. 249.

The Legislature has the power under the Constitution to waive such defenses and authorize the adjudication of the claim upon its merits stripped of strictly legal defenses. *Le Strange v. State*, 12 C. C. 249.

This court was authorized to make an award to the claimants' firm that "shall be just and equitable notwithstanding the lapse of time since the accruing of such damages or any act or omission which might be deemed a bar to said claim" and upon this basis they are entitled to recover the expense of changing the Potsdam sandstone specified by the contract in the first floor of the capitol to Vermont marble tiling also for substituting Tennessee marble in the second floor for slate which was specified in the contract and for removing and replacing plaster on two floors where it had become damaged through no fault of the claimants' firm particularly since the minds of the parties did not meet upon the terms of the final settlement. *Le Strange v. State*, 12 C. C. 249.

When a State official, having authority to order goods for his department, places an order for a specified number of automobile badges and seals, which were to be delivered from time to time as called for, and before the delivery of the full number ordered, discontinues ordering

CONTRACT — Continued.

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them from such person and places orders for the same articles, elsewhere, the State is liable for the breach of such contract. *Lang v. State*, 13 C. C. 3.

The measure of damages for the breach of a contract by the State for the manufacture of chauffeur badges and seals where part of the work has been done is the difference between the price that the State was to pay for the badges and seals and the amount expended upon their manufacture by the claimant at the time of the breach of the contract and the additional expense necessary to complete them. *Lang v. State*, 13 C. C. 3.

Where claimant's property is flooded by the construction of a cofferdam by a contractor, the flooding resulting from the manner in which the contractor did his work and not arising necessarily out of the contract itself, the contractor and not the State is liable, his relation being that of an independent contractor and the rule being well settled that there is no liability on the part of the State for acts similar to those referred to where it enters into a contract with a competent contractor, doing an independent business, who agrees to furnish materials and labor and make the entire improvement according to specifications prepared in advance for a lump sum or its equivalent, even when it reserves the right to change, inspect and supervise to the extent necessary to produce the result intended by the contract, providing the plant is reasonably safe, the work is lawful and is not a nuisance when completed and there is no interference therewith by State officers which results in injury. *Hunt v. State*, 15 C. C. 145

Where an expert, under a contract with the Attorney-General to give certain testimony in the so-called Consolidated Gas Case was to receive a stated amount as a retainer and another sum per day while actually engaged, as a preliminary to such testimony, examined the testimony of an expert for the Gas Company, but failed to give testimony of material benefit to the State, as he had promised to do under the contract, he was entitled to recover the sum named as a retainer, said sum becoming due when he accepted testimony of the Gas Company's expert to examine, and began his work, said retainer being a fixed sum, separate from his daily compensation, and in no way dependent upon his future work, or what the result of that work might be, but not the sum per day. *Hough v. State*, 15 C. C. 146

The State has placed limits upon the power of its officers to contract and incur indebtedness on its behalf. *Logan v. State*, 15 C. C. 161

See also

Lang v. State, 13 C. C. 3.

National Commercial Bank of Albany v. State, 13 C. C. 239.

Carroll v. State, 15 C. C. 241

Kirby v. State, 15 C. C. 246

Where the Attorney-General although having no sum of money specially provided for the purpose, entered into a contract with an attorney to represent the State as special counsel and thereafter the Legislature

CONTRACT — Continued.

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passed a bill appropriating money to compensate the attorney,—*Held*, that this was a ratification of the contracts made by the Attorney-General acting for the State. *Kirby v. State*, 15 C. C..... 246

Where a contractor engaged in constructing a sewer is, by the authority of a city, in the streets embraced in his contract, for the purpose of building sewers, he has a right to expect that no one, including the State, shall trespass upon his rights without liability for the damages which may be occasioned him thereby. *Cowles v. State*, 15 C. C..... 287

Where in the course of the construction of a canal natural conditions of soil unexpectedly appear which the contract does not in express terms cover and which render the performance of the contract as planned impossible, and make necessary substantial changes in the nature and cost of the contract, and substantially affect the work remaining under the contract, and the law will read into the contract an implied condition when it was made that such a contingency shall terminate the entire contract. *Kinzer Construction Co. v. State*, 15 C. C..... 326

Under such circumstances the State is liable for the work actually done at the time of the discovery of the conditions making the performance of the contract impossible; also for material furnished and delivered on the ground but not actually placed in the work; also for the pro rata share of the premium paid on a surety bond required by the contract; but not for loss of profits on work remaining to be done. *Kinzer Construction Co. v. State*, 15 C. C..... 326

Where upon the discovery of such conditions the State instead of immediately regarding the contract as terminated issues a so-called stop order and thereunder the contractor keeps his plant in readiness awaiting the decision of the State, the State is liable for the expense of maintaining the plant during the time during which it might have been used by the contractor. *Kinzer Construction Co. v. State*, 15 C. C..... 326

Where an extensive cave-in occurs in the course of a contract involving the banks and bed of a portion of the canal which the contractor under his contract has agreed to keep in a navigable condition, he is not liable for the expense of restoring navigation where there was no negligence in connection with the performance of his work, the terms of the contract not covering such a contingency. *Kinzer Construction Co. v. State*, 15 C. C..... 326

Interest is allowable upon the amount of work done and unpaid for, the material delivered and the pro rata cost of the surety bond from the time of the termination of the contract on account of impossibility of performance but not upon the amount of the unliquidated damages arising from the issuance of the stop order. *Kinzer Construction Co. v. State*, 15 C. C..... 326

See EXTRA MATERIAL; EXTRA WORK; GOOD ROADS.

CONTRIBUTORY NEGLIGENCE.

Where claimant's intestate who attempted to cross the Salina Street bridge in the city of Syracuse on a bicycle while the bridge was going up is chargeable with contributory negligence, he cannot recover

CONTRIBUTORY NEGLIGENCE — Continued.

where it appears by reliable evidence that he was warned before the bridge was raised not to get upon the bridge and again while it was up. *Mulvihill, as adm., etc., v. State*, 11 C. C. 17.

Where it appeared that the claimant, a boy of eight years of age and upwards, stood deliberately at the end of a lift bridge and placed his foot upon the flagstone on which the iron girders would descend when the bridge was lowered, and the descent of the bridge when lowered was not rapid but required thirty seconds to descend eleven feet; that the descent would have attracted the notice of any person standing near it whose attention was not otherwise engaged; that claimant failed to take that prudence and care which even a child of that age ought to have done; that the descent was slow enough so that if he had noticed the girder even when it was descending to the height of his head or shoulders there was plenty of time to have removed himself from the place of danger: *Held*, that claimant was guilty of contributory negligence and is not entitled to recover for the injury received because of such contributory negligence on his part. *Bristol v. State*, 11 C. C. 14.

When an employee of the State in charge of a lift bridge over the Erie canal gave warning to claimant intending to cross the bridge that it was about to be raised by giving the warning signal and also the danger signal by swinging his lamp and notwithstanding the warning the claimant, who was riding a bicycle, came upon the bridge, and after he was upon said bridge was again warned to stay on as he had not time to cross before it would be raised, but kept on and rode to the other end of the bridge and was thrown to the pavement below and injured: *Held*, the employees of the State in charge of the bridge were not negligent in operating the same and that claimant, in attempting to cross the bridge after the warning signals had been given and after the bridge tender had warned him not to proceed further, was guilty of contributory negligence and cannot recover. *Gillette v. State*, 11 C. C. 20.

Where a child six years of age was injured, while attempting to get upon a lift bridge which was being lowered, by having his foot caught between the roadway and the bridge, the State is chargeable with negligence, the flagman being absent at the time and the child being of such tender years as not to be chargeable with contributory negligence and no negligence being attributable to the parents of the child. *Ten Eyck v. State*, 11 C. C. 149.

Where an employee of the State is directed to do certain work and has charge of the work to be done, having previously performed similar work, and selects his own tools and appliances and directs their use, the State is not liable if he is injured in the performance of the work. *Ruthenberg v. State*, 11 C. C. 189.

When a person who is riding in a carriage driven by another who drives the horse upon a lift bridge and the horse and carriage are thrown backward off the bridge and the person is injured, such person cannot recover against the State where it is shown that the customary warning signals were given before the bridge was raised and while the carriage

CONTRIBUTORY NEGLIGENCE — Continued. Page.

was upon the street approaching the bridge. The officers of the State had performed their duty in giving the signals and the State was not guilty of negligence. *Heard v. State*, 11 C. C. 205.

The claimant is guilty of negligence by not observing an obstruction extending into the traveled path when driving a team which had difficulty in drawing a load of apples and pears up a steep approach to a bridge. *Joy v. State*, 12 C. C. 238.

See NEGLIGENCE.

CONVEYANCE.

Under the well settled law of the State where an intention to the contrary does not appear from the terms of the conveyance, a description of a riparian estate by which the line runs to a monument on the bank and thence "on," "to," "along" or "down" the river carries title to the thread of the stream, the monument merely determining the direction of the line toward the river. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

A conveyance of land bounded by a non-navigable stream carries title to the center thereof unless the parties restrict their grant to the shore line in very plain and express words. *Hinckley v. State*, 15 C. C. 95

See Johnson v. State, 13 C. C. 255.

See GRANT.

COOK, OLIVER W., v. STATE, 11 C. C. 128.

COOLIDGE, FRANK, v. STATE, 11 C. C. 200.

COUNTIES.

See County of Schenectady, 13 C. C. 209.

COUNTY OF SCHENECTADY.

Where a statute providing for the construction of good roads contained a provision that the cost of procuring the right of way should be paid by the Comptroller as a part of the cost of the improvement was amended by omitting the latter clause, thus placing the burden upon the county of obtaining the right of way, the amendatory act will not be given a retrospective effect so as to apply to highways in process of construction where condemnation proceedings are pending for the acquisition of the necessary right of way, in view of the Statutory Construction Law which provides that a repeal of a part of a statute should not affect or impair any act done or right accrued or acquired or liability, penalty, forfeit or punishment incurred prior to the time such repeal took effect, but that the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been effected, unless it clearly appears from the amendatory act that the Legislature intended that it should have a retroactive force and should apply to pending improvements and condemnation proceedings. *County of Schenectady v. State*, 13 C. C. 209.

COURT OF APPEALS.

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In a claim filed to recover for the unpaid salary of a judge of the Court of Appeals who had been retired from the bench by reason of having passed the age limit of seventy years and who had served in such capacity for ten years or more, and whose term of office for which he had been elected not having expired at the time of his death, and in which claim the executors sought to recover the salary for the full term extending beyond the death of the testator: *Held*, that the Constitution, § 12, art. 6, should not be so construed that salaries should be payable after the death of a judge who had been retired under its provisions, and that all obligations of the State for such payment ceased at death, and that claimant could only recover the amount of unpaid salary at the time of death of the testator. *Earl v. State*, 13 C. C. 33.

See JUDGE OF COURT OF APPEALS.

COWLES, HORACE N., v. STATE, 15 C. C. 287

CREEK. *See* BUTTERNUT CREEK; CHITTENANGO CREEK; GLENN CREEK; LIMESTONE CREEK; OAK ORCHARD CREEK.

CULVERT.

Where damages are claimed for the flooding of land due to the condition of a culvert which obstructed the flow of the water of a creek under the canal some negligence on the part of the State in maintaining the culvert must be shown to warrant a recovery. *Lynch and ano. v. State*, 12 C. C. 270.

Where it appears that a culvert for carrying away waters of a stream in times of flood was not improperly constructed, and that it was of sufficient capacity to take care of all ordinary rains and such as naturally would be expected in the locality, the State is not liable for damages resulting from the failure of the culvert to carry off the water resulting from the fall of rain during an unusual storm. *New England Brick Co. v. State*, 15 C. C. 313

Where it appears that a culvert for carrying off the waters of a stream in times of flood has been kept free and clear of obstructions by the State, and it further appears that the claimant has been in the habit of dumping refuse wood and brick on the banks of the creek, a portion of which during an unusual storm washed down stream against the culvert, the State cannot be held liable for damages resulting to the claimant from flooding of the claimant's premises, due to the choking of the culvert by the washing down of the material against it. *New England Brick Co. v. State*, 15 C. C. 313

CUYKENDALL, CHARLES, v. STATE, 11 C. C. 143.

DALEY, PATRICK B., & ANO. v. STATE, 13 C. C. 30.

DAM.

Where a dam was constructed in 1865 and flash boards had been used thereon ever since and no claim for flooding resulting therefrom was

DAM — Continued.

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made by claimant until 1901 the claim is not tenable, as under the Revised Statutes (§§ 48, 52), and Laws 1830, chapter 293, and Laws 1866, chapter 836, the State acquired a permanent easement to flood the land after the lapse of one year from the time the premises were flooded. *Ely v. State*, 11 C. C. 65.

Kline v. State, 11 C. C. 83.

Smith & Powell Co. v. State, 11 C. C. 87.

Appropriation of dam by State and easement to flood. *Hall v. State*, 11 C. C. 109.

Where the State arbitrarily maintains during the entire year flash boards which it had been the practice to remove at the close of navigation, it is liable for the injuries occasioned thereby. *Cuykendall v. State*, 11 C. C. 143.

Where flash boards had been removed usually at the close of each season of navigation and a canal superintendent without special authority maintained the flash boards during the entire year, the State is liable for his acts under the rule that it is liable for the tortious acts of its agents even where they were done in good faith in pursuance of the general authority to act on the subject to which they related. *Cuykendall v. State*, 11 C. C. 143.

Dennis v. State, 11 C. C. 143.

When in 1880 the State constructed a dam at the foot of Sixth lake and the owners of land flooded filed a claim against the State, and an award was made against the State for the flooding of all lands that would be flooded by a dam at the foot of said lake with a flow line ten and one-half feet above the apron of the dam and the State paid the award: *Held*, that the State has acquired the right to maintain a dam the flow line of which should not exceed ten and one-half feet above the apron of the dam, and that in case of floods raising the general surface of the lake to a higher level, the State was not liable. *Rowe v. State*, 11 C. C. 165.

Where claimant's property is flooded by the construction of a coffer-dam by a contractor, the flooding resulting from the manner in which the contractor did his work and not arising necessarily out of the contract itself, the contractor and not the State is liable, his relation being that of an independent contractor. *Hunt v. State*, 15 C. C. 145

DAMAGE.

Where the State within legal rights turns water upon the land of another causing all the damages and subsequently other water from natural sources mingles with those of the State, the State must respond for all of the damages as the sole source of damage. Where all the damage to land occurs from natural causes resulting from the overflow of a creek, the State is not liable for any damage though without legal right it mingles with the flood surplus water from the canal. Where part of the damages resulting from flooding are occasioned by waters which the State without legal rights turns upon the land of another and part are due to the natural overflow of a creek, the State is liable only

DAMAGE — Continued.

for such portion of the damages as it actually occasions. *Carhart v. State*, 11 C. C. 128.

Cook v. State, 11 C. C. 128.

Lasher v. State, 11 C. C. 128.

The evidence of damages is to guide and not to control the court in arriving at its award, and where witnesses on the part of the owner testify that certain water power is worth \$34,000 and the witnesses on behalf of the State testify that it is worth nothing, the court may make such an award between these estimates as it may deem proper. *Hall v. State*, 11 C. C. 109.

The State must respond in damages where it negligently turns water upon the land of another, which water would not naturally, without the intervention of the State, have found its way there and thereby cause damages, but where the State turns water upon the land of another, which land was flooded and damaged previously from natural causes, the State is not liable where all of the damages were occasioned before the State's trespass even though without legal right it mingles surplus water from the canal with the flood water. Where the State negligently turns water from a feeder upon the land of another where it mingles with flood waters from a creek and together causes damages, the State is not liable for all of the damages occasioned but only for such portion as it actually causes.

Ostrander, J. N., v. State, 11 C. C. 175.

Ostrander, Charles, v. State, 11 C. C. 72.

Acer v. State, 11 C. C. 72.

Post v. State, 11 C. C. 72.

A claim for damages for seepage from the canal cannot be dismissed, although it is evident that the wet condition of the premises is due to other causes, where it appears from the evidence that there is some seepage, however slight, from the canal. *Brown v. State*, 11 C. C. 173.

Where a claim is for permanent appropriation and there is no question of benefit involved, the compensation may be measured by the difference in the value of the property before and after the taking or by the value of the land taken plus the damages to the remainder. *Bonneville v. State*, 12 C. C. 173.

The measure of damages for which the State is liable in the case of the destruction of a canal boat and other property destroyed to restore navigation after a break is the value of the property after the break, eliminating all damages due to the break itself. *Foote v. State*, 12 C. C. 55.

When the State negligently occasions part of the flooding and a portion of the damages and a part is caused by natural causes the State is liable only for its share of the damages, but where the State occasions all the flooding and causes all the damages it must respond to the full extent of the injury. *Harris v. State*, 12 C. C. 22.

Where willow roots have been destroyed through the negligent flooding of land by the State the measure of damages is the difference of the market value of the land with and without the willows. Where the crop

DAMAGE — Continued.

has been destroyed, but the willows have not been destroyed, the damages are the value of the crop impaired or destroyed because the State may cease to trespass at any time. *Keith v. State*, 12 C. C. 144.

The measure of the damages is the value of the property destroyed at the time of its destruction. *Town of Lenox v. State*, 12 C. C. 159.

See *Carhart v. State*, 12 C. C. 152.

Gray v. State, 12 C. C. 71.

McDonald v. State, 12 C. C. 79.

Zimmerman v. State, 12 C. C. 88.

Where premises in a somewhat deteriorated condition are flooded through the negligent acts of the State causing damages to the structures and a loss of rents, the owner of the premises is entitled to the cost of making reasonable repairs to put his premises in a tenantable condition and to the loss of rents occasioned by the negligent acts of the State. In such a case the owner is not entitled to the diminution in the market value of the premises in addition to the cost of making repairs and the loss of rents. *Stevens v. State*, 13 C. C. 111.

If one claims damages for an injury resulting in alleged permanent physical impairment, it is incumbent on the claimant to prove such permanent physical impairment is the result of the injury received. *Hynes v. State*, 13 C. C. 49.

The State having taken certain adjacent land for canal purposes, the courts may not compel it to take additional lands which may be flooded if the high navigable stage of the canal should ever be reached, and such lands not being necessary for ordinary use and their flooding being only a possibility or contingency, the damage thereto is speculative and not to be considered in fixing the award for the lands taken. *Johnson v. State*, 13 C. C. 55.

Where the State appropriates a municipal building in a village for the Barge canal its value will not be based upon the cost of reproducing the building nor upon its value to the village, but upon the market value of the property in the condition in which it was at the time of the appropriation. *Village of Whitehall v. State* 13 C. C. 139.

While it is proper to receive evidence as to the quantity of moulding sand on a farm and the availability of the frontage of the farm for building lots as bearing upon the value of the farm the compensation for the taking of the farm is to be estimated by the market value of the property. *Gregg v. State*, 13 C. C. 38.

The measure of damages, for the breach of a contract by the State for the manufacture of chauffeur badges and seals where part of the work has been done, is the difference between the price that the State was to pay for the badges and seals and the amount expended upon their manufacture by the claimant at the time of the breach of the contract and the additional expense necessary to complete them. *Lang v. State*, 13 C. C. 3.

As to the rule of damages to be applied in appropriation cases, *Held*, that the owner is not limited in compensation to the use which he makes or has made of his property, but is entitled to receive its greatest value

DAMAGE -- Continued.

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for any purposes for which it is naturally adapted. He is, however, limited to its market value, and in determining such value he may show its location, its surroundings and adaptability, and if it has been rented he may show the fact, although the rent received is not to be deemed as controlling upon the question of value, but as some evidence bearing thereon. *Palmer v. State*, 15 C. C. 55

Also, that in determining the value of land appropriated for public purposes, the same conditions are to be regarded as in the sale of property to private parties. The inquiry in such cases must be what is the property worth in the market, viewed not merely with reference to the uses to which it is plainly adapted, but what it is worth from its availability for valuable uses. The property is not to be deemed worthless because the owner allows it to go to waste or to be regarded as valueless because he is unable to put it to any use. Others may be able to use it and make it serve the necessities or conveniences of life. *Palmer v. State*, 15 C. C. 55

The profits of a business are a guide, valuable but not conclusive, in determining the value of the property and plant which produced them. *Lincoln Spring Co. v. State*, 15 C. C. 81

While certainty is the general rule in estimating values, probability must of necessity sometimes be taken into consideration. When, owing to inherent and insurmountable conditions, the exact facts upon which value depends cannot be proved, reasonable probabilities cannot be disregarded, for the owner is entitled to rely on anything that enters into the market value. Market value means the fair value of the property as between one who wants to purchase and one who wants to sell. A reasonable probability that a fact exists, although it cannot be proved, which, if it exists, would add largely to the value of certain property, adds to the market value of that property, even if the probability is not strong enough to warrant a finding that the fact does exist. *Lincoln Spring Co. v. State*, 15 C. C. 81

The owner of land taken in condemnation cannot recover a larger price for his property owing to the use which the State intends to make of similar lands nearby taken or purchased at about the same time for the same purpose. Such a rule of damages would penalize government in a progressive ratio for making a public improvement by increasing the price of the land needed as each parcel was acquired for public use. *Lincoln Spring Co. v. State*, 15 C. C. 81

As to the damages recoverable where land is permanently appropriated by the State, *Held*, that the claimants are entitled to recover the market value of the property appropriated estimated according to the condition of the title at the date of appropriation, as well as the damages caused to the remainder of their property not appropriated. Hence a flowage and booming easement granted by an early deed from the original proprietors of the land and an easement in the public for highway purposes are to be taken into account. *Hinckley v. State*, 15 C. C. 95

Where the whole property is appropriated and benefits are not involved the method for ascertaining the damages so far as the owner is concerned, is to estimate the market value of the property at the time of

DAMAGE — Continued.

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the appropriation taking into account all improvements upon it which form a part of the realty whether made by the owner or the tenant.

Champlain Stone and Sand Co. v. State, 15 C. C. 181

In such a case where the rent reserved for the unexpired term equals or exceeds the market value there are no damages to the tenant but where the rent reserved is less than the market value of the lease for the unexpired term the tenant is entitled to the difference between the market value of the lease and the rent reserved. Champlain Stone and Sand

Co. v. State, 15 C. C. 181

Where only part of the leased property is taken the question so far as the owner is concerned is, where benefits are not involved, what was the market value of the property immediately before and immediately after the appropriation taking into account the character of the public improvement to be made and the structures placed upon the property either by the owner or by the tenant which form a part of the realty.

Champlain Stone and Sand Co. v. State, 15 C. C. 181

Where only part of the leased property is taken the question, so far as the lessee is concerned is, what was the lease worth in the market immediately before and immediately after the appropriation taking the same elements into consideration as in the case of the owner with reference to the public improvement and the structures placed upon the property. Champlain Stone and Sand Co. v. State, 15 C. C. 181

Where property taken is subject to a lease or other incumbrance the value of the lease or incumbrance or where part of the property is taken, the damages to the lease or incumbrance, must come out of the compensation allowed for the fee. Champlain Stone and Sand Co. v. State,

15 C. C. 181

Where part only of premises is taken and there is no question of benefits involved, the compensation to be awarded a claimant may be measured either by the difference in the market value of the property before and after the appropriation or by the market value of the part actually taken plus the damages to the remainder of the property, of which the appropriated land formed a part. Lehigh Valley Railway

Co. v. State, 15 C. C. 226

Where benefits are involved the better rule is to ascertain the value of the property taken, which amount at least must be allowed and then determine the damages to the balance of the property, offsetting against these damages any benefits from the improvement. Lehigh Valley Rail-

way Co. v. State, 15 C. C. 226

Where the State appropriated land upon which were a house, barn, boathouse and hogpens, the land appropriated being used for the renting of boats, *Held*, that the fact that the property was available and used for the renting of boats could be taken into account in estimating the value of the property, but the claimant could not be allowed damages for loss of business or loss of profits. Vincent v. State, 15 C. C. 229

Where part of a farm suitable for the raising of potatoes is appropriated by the State, and the estimates of damage of the claimant's witnesses seem to be largely based upon the productive capacity of the

DAMAGE — Continued.

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appropriated land, *Held*, that in this respect the testimony is not entirely reliable, for while the productive capacity may be considered, it is not a sole test of the value of the property, and also, that while the claimant may have made a high net profit per acre from the land appropriated, the same investment on other land might yield more than that amount and the personal element of labor and skill and the exigencies of the seasons make the net profit unreliable as a sole test of value. *Flannigan v. State*, 15 C. C. 263

Where the owner of property and his tenant's assignee appeared in court and consented that their respective claims against the State and each other be determined, *Held*, that the owner was entitled to the value of the premises less the value of the lease, and the lessee's assignee was entitled to the value of the leasehold, which as no witnesses were produced by the State, was estimated to be the difference between the rental value, as testified by the claimants' witnesses, for the unexpired term over and above the rent reserved, deducting the water tax which the lessee was obliged to pay. *Riley v. State*, 15 C. C. 277

Osley v. State, 15 C. C. 277

Where the State appropriated land for the barge canal and thereby cut off the claimant's access to the public highway, *Held*, that the value of the land taken did not represent the damages which the claimants had sustained, for they were entitled to the damage that the remainder of the farm may have sustained as a result of the deprivation of the farm from access to the public highway. *Guerin v. State*, 15 C. C. 279

The net income received is not the sole criterion for estimating the value of property appropriated, although it may be taken into account. *Guerin v. State*, 15 C. C. 279

Where the State, for Barge canal purposes, appropriates land constituting part of a farm, which appropriation divides the farm into two parts, one part of which is cut off from access to the highway and has no outlet, the claimant is entitled to the market value of the land taken, including whatever in the nature of realty was attached to the land, and is also entitled to a substantial allowance for damages to the property cut off from access to the highway. *Perkins v. State*, 15 C. C. 282

The want of ingress and egress to land cut off by an appropriation is a serious element in determining the damages to which the claimant is entitled. In fixing this amount there should be taken into account the fact that a complete scheme for securing a private right of way is provided for in the statutes of the State pursuant to the Constitution (Constitution, art. 1, § 7; Highway Law, L. 1909, ch. 30, §§ 211-228); and that the expense of these proceedings would be quite large. In addition to this consideration, where, even with a private right of way, the claimant will be seriously inconvenienced in operating his farm by being compelled to travel a considerable distance further to reach his buildings, this item is also to be taken into account in estimating the damages. *Perkins v. State*, 15 C. C. 282

Where the State appropriated land upon which were buildings, erected by tenants under a lease whereby they had the right to remove the

DAMAGE — Continued.

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buildings at the expiration of the lease, *Held*, That the interest of the tenants is the market value of their lease, taking into account all of its items, including the buildings and any other property in the nature of realty they had attached to the soil. The award to the owner is for the value of the fee, which includes structures in the nature of realty attached to the soil. The compensation awarded for the fee must include an amount sufficient to compensate the tenants for the value of their lease including the buildings and other property in the nature of realty they had placed upon the land. The difference between the market value of the fee and the market value of the lease, taking all the elements into account will measure the compensation of the owner. The balance will be the compensation to which the tenants are entitled.

Rourk v. State, 15 C. C. 285

Cole v. State, 15 C. C. 285

The State is liable only for damages caused by its own negligent acts, or to put the statement in another form, where damages are claimed for leakage from the canal, it is not liable if the damages claimed to have been suffered by leakage would have occurred notwithstanding its negligence. *Cowles v. State*, 15 C. C. 287

Where the proof clearly shows that the State was negligent in the care of the canal bank and that water came through the break and actually invaded the trenches and works of the claimant, a contractor engaged in building a sewer, and caused him considerable damage, the claimant should be allowed the damages which he has proven were caused thereby. *Cowles v. State*, 15 C. C. 287

Where the State appropriated property consisting of a hotel, barn and other buildings the claimant was held entitled to recover only the market value of the property, even though it would be difficult, if not impossible for him to utilize that amount in such a way that he would receive the same income therefrom as he had been receiving from the land appropriated by the State. *Smith v. State*, 15 C. C. 293

A claimant is not entitled to any allowance for the business conducted upon the property appropriated although this fact may be considered in connection with estimating the value of the property. *Milton v. State*, 15 C. C. 300

Where the State appropriates a block, part of which is occupied by tenants in possession under a written lease, the total amount of damages for which the State is liable is the market value of the premises, out of which must come the leasehold interest. *McFadden v. State*, 15 C. C. 305

Fowler v. State, 15 C. C. 305

In a claim for damage from leakage, where it appeared that former recoveries had been had for the same alleged negligence on the part of the State, and the Court was satisfied that the claimant had not exerted himself to avoid the recurrence of damages, and where the testimony was of a somewhat general nature and claimant's books, which he asserted showed his losses in rent, were not in court, and no tenant was sworn to show he had moved out of claimant's premises because of their wet condition, and as only a slight expense was required to obviate any

DAMAGE — Continued.

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further damage, *Held*, That an award for a small sum was sufficient to cover all the damages for which the State should respond, and it was the duty of the claimant to use all reasonable measures to reduce his damages as much as possible. *Stevens v. State*, 15 C. C. 301

Where land appropriated by the State had formerly been part of a farm and had upon it a first growth of timber, it is to be treated as farm land in arriving at its value, the timber, however, being an item to be considered with the other elements, although it is not to control nor form the basis for estimating the compensation. The rule to be followed in such a case is "what was the value of the farm before the appropriation and after the appropriation, taking into account the nature of the soil and the condition of the farm." *Stevens v. State*, 15 C. C. 304

Where land and trees are appropriated, it is not proper in appraising the property to estimate its value by placing a separate value upon each tree taken and upon the land. The recognized rule is to appraise the market value by estimating the difference in the market value of the land with and without the trees as a part of it. Some trees have a market value apart from the land, like nursery stock or forest trees good for cutting up into lumber, but ordinarily a tree has a market value only as a part of the soil, and as such it can only be estimated in connection with the soil. It is real estate and there is no rule which allows of its appraisal in these proceedings as if it were removable from the soil and salable as such. *Bell v. State*, 15 C. C. 316

The proper rule for estimating the value of land actually taken is to arrive at its market value. The damages are measured by what a willing buyer would pay a willing seller for it. The fact that the State forces the claimant to surrender his land is not to be taken into account in enhancing the damages. Where the State forces the claimant to surrender his land, it is exercising a right of sovereignty which it has always had. Every citizen holds his land subject to the right of the State to take it back for necessary public purposes. He holds it by virtue of the protection given him by his government and must surrender it when needed for necessary public purposes upon receiving just compensation, and this compensation is not to be enhanced by the fact that he is called upon to surrender the land the title to which originally was in the State. *Bell v. State* 15 C. C. 316

The just compensation to be made to claimants in cases of this character may be measured by the difference in the value of the property before and after the appropriation, where the question of benefits does not come into play; but where benefits are involved it must be measured by adding to the market value of the land taken, the damages to the remainder of the property, deducting benefits, if there are any, from the damages to the remainder of the property. *Bell v. State*, 15 C. C. 316

The State is not liable for damages to abutting property for closing a canal bridge pending repairs where it appears that the repairs were made with reasonable dispatch considering the circumstances. *Kline v. State*, 15 C. C. 366

DENNIS, DAVID S., v. STATE, 11 C. C. 143.

DIMMOCK, WILLIAM, v. STATE, 11 C. C. 23.

DREDGE.

Where there are open and well known defects in the appliances with which a claimant is working and the place where he is called upon to do his work is unsafe, he is not chargeable with negligence if he remains until injured if he has been promised a reasonable time before the accident that the defects would be remedied and remained relying on these promises. *Post v. State*, 13 C. C. 99.

DUFFY, WALTER B., v. STATE, 11 C. C. 182.

EARL, ROBERT, ET AL. v. STATE, 13 C. C. 33.

EASEMENT.

Where a dam was constructed in 1865 and flash boards had been used thereon ever since and no claim for flooding resulting therefrom was made until 1896 the claim is not tenable, as under the Revised Statutes (§§ 48, 52), and Laws 1830, chapter, 293, Laws 1866, chapter 836, the State acquired a permanent easement to flood the lands within one year after the premises had been flooded. *Kline v. State*, 11 C. C. 83.

Where a permanent easement to flood lands has been acquired under the statutes (Revised Statutes, §§ 48, 52, Laws 1830, chapter 293, Laws 1866, chapter 836), any claim for damages resulting from the flooding was not revived by Laws 1870, chapter 321, which applied only to a class of claims which had not been provided for previously. *Kline v. State*, 11 C. C. 83.

Where a dam was constructed in 1865 and flash boards had been used thereon ever since and no claim for flooding resulting therefrom was made by claimant until 1900 the claim is not tenable, as under the Revised Statutes (§§ 48, 52), and Laws 1830, chapter 293, and Laws 1866, chapter 836, the State acquired a permanent easement to flood the lands within one year after the premises had been flooded. *Smith & Powell Co. v. State*, 11 C. C. 87.

Interruption in the continuity of the user of flash boards does not affect the right to an easement acquired under the statutes unless the circumstance show an intention of abandonment. *Smith & Powell Co. v. State*, 11 C. C. 87.

Periodical cessations in the continuity of the flooding caused by the erection of a dam, without intention of abandoning the right to flood or where the interruptions were due to the interference of others than the owner of the dam, does not affect the validity in any prescriptive rights acquired by such flooding. *Hall v. State*, 11 C. C. 109.

Easement of air as a property right under the State Constitution. *Sander v. State*, 11 C. C. 1.

Where the State of New York built a canal in the vicinity of the claimant's property years ago but abandoned this canal and constructed a new one, and in the construction of said new canal cut off certain pipes

EASEMENT — Continued.

that were laid across the claimant's land from the old canal to the present Erie canal, and by reason of the cutting off of the said pipes the claimant's property was flooded: *Held*, That the State had a right in the construction of the new canal to sever these pipes and that it was not liable for any damage that might be done thereby to the claimant's property and that the claim should be dismissed. *McIntyre v. State*, 11 C. C. 25.

Where a permanent easement to flood land has been acquired under the Revised Statutes (§§ 48, 52), Laws 1830, chapter 293, and Laws 1866, chapter 836, any claim for damages resulting from the flooding was not revived by Laws 1870, chapter 321, which applied only to a class of claims which had not been provided for previously. *Ely v. State*, 11 C. C. 65.

Interruption in the continuity of the user of flash boards does not affect the right to an easement acquired under the statutes unless the circumstances show an intention of abandonment. *Ely v. State*, 11 C. C. 65.

See HIGHWAY; PRESCRIPTION; STATUTE OF LIMITATIONS.

ELY, GEORGE BURKE, v. STATE, 11 C. C. 65.

EMINENT DOMAIN. *See* PERMANENT APPROPRIATION.

EMPLOYEE. *See* WAGES.

ENABLING STATUTE.

Where the waters of a creek carry down dirt and gravel and form a bar at the mouth of the creek in the bottom of an abandoned canal, and in time of heavy rain the bar so formed causes the waters of this creek to back up and overflow claimant's property: *Held*, That the creek which overflowed being no part of the canal system of the State, without an enabling act the Court of Claims had no jurisdiction of the claim. *Freer v. State*, 11 C. C. 9.

By section 264 of the Code of Civil Procedure the Court of Claims has jurisdiction to hear a private claim against the State, but it is likewise true that the sovereign power cannot be sued without its consent. No such consent is shown or pleaded in this claim. No claim on behalf of a citizen can be maintained against the State for injuries occasioned by the negligence or misfeasance of its agent except when it has by legislative enactment assumed such liability. That no enabling act having been passed by the Legislature conferring jurisdiction upon this court to hear and determine the claim of the claimant, the court has no jurisdiction to hear the same. *Dimmock v. State*, 11 C. C. 23.

Where a canal has been abandoned by the State and damages are occasioned by the use or nonuse which the State makes of the property the claimant must point to some statute wherein the State has consented to assume a liability for its acts. *Hughson v. State*, 11 C. C. 37.

An enabling act which permits the submission of a claim against the State to a court and authorizes an award notwithstanding any "act or omission which might be deemed a bar to such claim" waives the defense that the transaction between the claimant's firm and the State at the

ENABLING STATUTE — Continued.

time of the firm's settlement of the contract amounted to an agreement whereby they adjusted their claim for extra work and also waives the defense that the extra work was not done pursuant to a written order as required by the contract. *LeStrange v. State*, 12 C. C. 249.

Morgan and ano. v. State, 12 C. C. 38.

Quayle v. State, 11 C. C. 44; affirmed in part 124 A. D. 81; 192 N. Y. 47.

See JURISDICTION; CONSENT.

ENCROACHMENT.

The State may replace an old bridge by a new one of different pattern without liability for damages but in so doing cannot encroach upon private property with its new construction without subjecting itself to liability for damages. *S. F. Hess & Co. v. State*, 11 C. C. 41.

See BRIDGES.

ERIE STREET BRIDGE (BUFFALO).

Where the State is bound to keep and maintain a bridge on Erie street in the city of Buffalo over the Erie canal and permits the steps to become defective and remain so for a year or more, the State is liable to a person who is injured by falling upon the steps leading to said bridge. *Genteluce v. State*, 12 C. C. 234.

The State maintains a bridge over the Erie canal in the city of Buffalo. There were intermittent or slight falls of snow during a few days preceding March 15, 1906. The temperature was such as to permit the thawing of the snow on the ground, during portions of the day, and then freezing and forming ice. At one end of this bridge there were steps about 8 to 10 feet long, 8 to 10 inches wide, and about 8 inches high. The snow fell on these steps, melted, froze, and formed ice about two inches thick, and which was round and smooth. There was another passageway or sidewalk on the opposite side of the bridge on which there was better walking at the time of the accident. On the evening in question the claimant ascended these steps and passed over the bridge. On her return, in descending the same steps, she slipped upon the ice on the second step and fell. *Held*, that the State was not negligent and the claimant could not recover. *Giambrone v. State*, 13 C. C. 212.

See BRIDGES.

EVERSHED MAPS. *See EVIDENCE; MAPS.*

EVIDENCE.

The evidence of damages is to guide and not to control the court in arriving at its award, and where witnesses on the part of the owner testify that certain water power is worth \$34 000 and witnesses on behalf of the State testify that it is worth nothing, the court may make such an award between these estimates as it may deem proper. *Hall v. State*, 11 C. C. 109.

Where a claim is filed to recover damages occurring from the alleged negligence of the State, its officers or servants, in the care and management of the canal, causing a flooding of land, and where there is a conflict

EVIDENCE — Continued.

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of testimony, the claimant is bound to prove by a fair preponderance of evidence that the injury was caused by the negligence of the State. *Parker v. State*, 13 C. C. 17.

When a claimant alleges that his crops were flooded and destroyed by the negligence of the State in carelessly and negligently emptying more water into Black river from the Forestport feeder, and also alleges that the flooding was partly caused by placing flash boards on the State dam at Carthage, the burden is upon the claimant to prove the acts to have been committed by the State. *Van Amber v. State*, 12 C. C. 68.

Where a claim is filed for damages for the appropriation of land, the Court of Claims cannot disregard the evidence and make an award less than the amount testified to by the lowest witness called as to value of the property, and claimant is also entitled to recover an amount paid for a search showing title to the land appropriated. *Burchard v. State*, 15 C. C. 239

The Holmes-Hutchinson maps of 1834, the Improvement Map of 1838, and the Evershed Maps of 1875, were made pursuant to statute and are competent evidence to prove the State's title to land along Tonawanda creek. *Pierce v. State*, 15 C. C. 260

Where the title to canal land appropriated prior to the enactment of the Canal Law of 1894 is in dispute, the State may prove its title by showing the actual construction of its canal and works thereon, the Holmes-Hutchinson maps of 1834, the Evershed maps of 1875, official records, maps and documents and any other competent evidence which bears upon the title. *Miller v. State*, 15 C. C. 266

The original Holmes-Hutchinson maps of 1834 or a duly certified copy of a portion thereof may be offered in evidence upon the subject of the ownership of canal land by the State and are presumptive evidence of the title of the State although copies thereof were not filed in the county clerk's office where the land is situate. *Miller v. State*, 15 C. C. 266

A map made over 30 years ago for the construction of an improvement of the canal and the appropriation of land necessary therefor produced from a Division Engineer's office of the State may be introduced in evidence as an ancient document bearing upon the possession and title of the State to land included within territory proposed to be appropriated according to the map. *Miller v. State*, 15 C. C. 266

The so-called Evershed maps of 1875 being over 30 years of age, having been shown to be prepared pursuant to legislative authority and having been produced from the State Engineer's office at Albany, the legal custodian of the maps or a certified copy of a part of such maps are not presumptive evidence of the title to canal lands because not properly authenticated as required by statute, but are competent evidence of the title of the State to the land included within the blue line shown upon the maps. *Miller v. State*, 15 C. C. 266

EXCAVATION. See NEGLIGENCE.

EXCHANGE STREET BRIDGE (ROCHESTER).

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The State may replace an old bridge by a new one of different pattern without liability for damages, but in so doing cannot encroach upon private property with its new construction without subjecting itself to liability for damages. Where the State constructs an abutment of a bridge in a public highway beyond the blue line in such a way as to interfere with the light of adjacent property and to ingress and egress and so as to cause dust and other like material to be blown upon claimant's premises, it is liable for the damages occasioned thereby. *S. F. Hess & Co. v. State*, 11 C. C. 41.

Where a bridge tender with the acquiescence of the foreman of repairs aids him in removing old plank from a bridge elevated for purposes of repair and throws a plank upon one lawfully upon the highway, the State is liable although he was a volunteer in assisting in making the repairs. *Spencer v. State*, 11 C. C. 114.

See BRIDGES.

EXPERT TESTIMONY.

Claim for compensation under a contract with the State for the giving of. *Hough v. State*, 15 C. C. 146

Logan v. State, 15 C. C. 161

See CONTRACT.

EXTRAS. *See* CONTRACT; EXTRA HOURS; EXTRA MATERIAL; EXTRA WORK.

EXTRA HOURS. *See* WAGES.

EXTRA MATERIAL. *See* CONTRACT; EXTRA WORK.

EXTRA WORK.

A subordinate officer of the State has no power or authority to vary or extend a written contract made between the State and a claimant. A local agent, architect, or division engineer is such a subordinate officer and has no power to vary a contract so as to bind the State. Where additional work or better material than the contract requires is ordered by a subordinate officer, compliance of a contractor must be regarded as voluntary service even though the State acquires the benefit by the change. Where one deals with a public officer he is bound to take notice of the scope and limitation of his authority. *Burgard v. State*, 11 C. C. 27.

See CONTRACT.

FAGAN, JOHN, SR., 12 C. C. 115.

FARM CROSSINGS.

Where a right of way which a railroad has constructed from the remainder of a farm leads to a parcel that the State has appropriated for Barge canal purposes, and a parcel lying between the railroad and the canal has not been appropriated by the State, the State is not liable for damages because of the isolation of the parcel not appropriated, as the railroad has control of its right of way and it is proper that it should

FARM CROSSINGS — Continued.

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be required to build whatever crossings are necessary upon the completion of its road and such other crossings as may become necessary by a change in ownership or a division of the farm whether brought about by agreement or by condemnation. *Maynard v. State*, 15 C. C. 291

The Railroad Law provides that railroads are required to construct "farm crossings and openings with gates therein at such farm crossings whenever and wherever reasonably necessary" (section 32), which is a continuing obligation and applies, where, subsequent to the acquisition of its right of way by a railroad, part of a farm is appropriated in condemnation proceedings, which cuts off the only existing farm crossing, regardless of whether the right of way of the railroad was acquired by agreement or by condemnation proceedings, unless it is clear that the railroad company was relieved from the obligation to construct further crossings. *Maynard v. State*, 15 C. C. 291

FEEDER.

Where the State constructs a feeder utilizing a creek for a portion of the way as a part of the feeder and connects three separate water-sheds, negligently permits gates at the head of the feeder to become out of repair so as to allow water to escape through or under them, and allows the banks of the feeder to become depressed in places and out of repair, it is liable for damages occasioned by flooding, due to its own negligent acts. *Ostrander, J. N., v. State*, 11 C. C. 175.

Ostrander, Charles, v. State, 11 C. C. 72.

Acer v. State, 11 C. C. 72.

Post v. State, 11 C. C. 72.

FITZGERALD, WILLIAM, v. STATE, 12 C. C. 117.

FIXTURES.

Where a lease provides for the erection of structures upon land by a tenant they are to be treated in condemnation proceedings as realty where they form a part of the realty though designated in the lease as personal property removable by the lessee at the expiration or termination of the lease.

Rourk v. State, 15 C. C. 285

Cole v. State, 15 C. C. 285

Where the State appropriated land upon which were buildings, erected by tenants under a lease whereby they had the right to remove the buildings at the expiration of the lease, *Held*, That as between the owner and the tenant the buildings are to be regarded as personal property, but as between the State and the parties, they are to be treated as a part of the realty. *Rourk v. State*, 15 C. C. 285

Where the State appropriated land upon which there was a factory and an engine and derrick resting upon substantial foundations, all of which were used in connection with the business conducted on the property; *Held*, That the State could not take the bare land and subject the owner to the loss of the depreciation of such structures and machinery as he

FIXTURES — Continued.

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had placed upon it; that the rule that applied is that which obtains between vendor and vendee, which is that a purchaser of the property would have acquired the engine and derrick with the building as a part of the plant; that there was such an annexation and adaptability of the property as to constitute the engine and derrick a part of the realty; that they were securely attached to the freehold and were used in connection with the business; that they were part of the plant and essential to the operation thereof and could not be removed except with such a depreciation in value as would amount to an appropriation without just compensation. *Phipps v. State*, 15 C. C. 392

See also DAMAGES.

FLANNIGAN, ALICE, v. STATE, 15 C. C. 263

FLASH BOARDS.

The State is liable where without authority its officers or employees temporarily maintain flash boards beyond the height to which they were authorized to raise them. *Kline v. State*, 11 C. C. 83.

Where the state arbitrarily maintains during the entire year flash boards which it had been the practice to remove at the close of navigation, it is liable for the injuries occasioned thereby. Where flash boards had been removed usually at the close of each season of navigation and a canal superintendent without special authority maintained the flash boards during the entire year, the State is liable for his acts under the rule that it is liable for the tortious acts of its agents even where they were done in good faith in pursuance of the general authority to act on the subject to which they related. *Cuykendall v. State*, 11 C. C. 143.

Interruption in the continuity of the user of flash boards does not affect the right to an easement acquired under the statutes unless the circumstances show an intention of abandonment. *Ely v. State*, 11 C. C. 65.

Smith & Powell Co. v. State, 11 C. C. 87.

See DAM.

FLOODING. *See EASEMENT; LEAKAGE, OVERFLOW AND FLOODING.*

FLOWER, FREDERICK S., v. STATE, 15 C. C. 164

FOOTE, FRANK G., v. STATE, 12 C. C. 54.

FORECLOSURE. *See PERMANENT APPROPRIATION.*

FOWLER, NORMAN A., v. STATE, 15 C. C. 305

FREER, WILLIAM B., v. STATE, 11 C. C. 9.

FULTON LIGHT, HEAT & POWER CO. v. STATE, 12 C. C. 179; 13 C. C. 285.

GENTELUCE, LAZARENO, v. STATE, 12 C. C. 234.

GIAMBRONE, CARMELIA, v. STATE, 13 C. C. 212.

GIAMBRONE, LOUIS, v. STATE, 13 C. C. 212.

GILLETTE, GEORGE A., v. STATE, 11 C. C. 20.

GLENN CREEK (SCHUYLER COUNTY).

Where the waters of a creek carry down dirt and gravel and forms a bar at the mouth of the creek in the bottom of an abandoned canal, and in time of heavy rain the bar so formed causes the waters of this creek to back up and overflow claimant's property: *Held*, that the creek which overflowed being no part of the canal system of the State, without an enabling act the Court of Claims had no jurisdiction of the claim. *Freer v. State*, 11 C. C. 9.

GOOD ROADS.

Where a statute providing for the construction of good roads contained a provision that the cost of procuring the right of way should be paid by the Comptroller as a part of the cost of the improvement was amended by omitting the latter clause, thus placing the burden upon the county of obtaining the right of way, the amendatory act will not be given a retrospective effect so as to apply to highways in process of construction where condemnation proceedings are pending for the acquisition of the necessary right of way, in view of the Statutory Construction Law which provides that a repeal of a part of a statute should not affect or impair any act done or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time such repeal took effect but that the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been effected, unless it clearly appears from the amendatory act that the Legislature intended that it should have a retroactive force and should apply to pending improvements and condemnation proceedings. *County of Schenectady v. State*, 13 C. C. 200.

See EXTRA MATERIAL; EXTRA WORK; CONTRACTS; HIGHWAY STATUTE.

GOVERNMENTAL FUNCTION.

In operating an inclined railway for the use of which it exacts a fare from passengers, in connection with a reservation like the Niagara Reservation managed by commissioners, the State is not discharging a governmental function and is liable like a private corporation under the same facts. *Burks v. State*, 13 C. C. 153.

GRANT.

The general rule for the construction of grants by the State where there is a valuable consideration does not differ from that which applies to grants by individuals, and where the grant is in the nature of a patent of land by the State given for military services there is an adequate consideration and the rule applies. *Fulton Light, Heat and Power Company and ano. v. State*, 12 C. C. 179.

GRANT — Continued.

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Wood Creek, which formed part of the ordinary route of travel between the Hudson River and Lake Champlain from earliest times, and was used by the Indians and later by the Colonists, was regarded as navigable, and in the patent from the English Crown to Philip Skene, was excepted and reserved "as a common highway for the benefit of the public."

Philip Skene having been attainted of treason by the Legislature of the State of New York in 1779, and his lands sold by the Commissioners of Forfeiture, those claiming under the Skene patent have no interest in the bed of Wood Creek, and the State may take a portion thereof for its canal system without compensation to the riparian owners.

The State having taken certain adjacent land for canal purposes, the courts may not compel it to take additional lands which may be flooded if the high navigable stage of the canal should ever be reached, and such lands not being necessary for ordinary use and their flooding being only a possibility or contingency, the damage thereto is speculative and not to be considered in fixing the award for the lands taken.

Semble, for such damages if they should ever occur the owner may have a further claim against the State. *Johnson v. State*, 13 C. C. 55.

Irregardless of the provisions of L. 1835, ch. 232, and L. 1850, ch. 283, the Commissioners of the Land Office have jurisdiction to make grants of land on the Long Island shore to abutting owners thereof, not only to the tideway, that between high and low water mark, but also to the lands under the waters of the river although within the territorial limits of the city and county of New York, out to the bulkhead and pierhead lines established by the Legislature and approved by the War Department.

Palmer v. State, 15 C. C. 55

Where the language of certain patents is in substance that in case the grantees named therein shall not within the time specified apply the premises to the purposes of commerce by the adjacent owner "by erecting a dock or docks thereon and filling the same, then these presents and everything therein contained shall cease, determine and become void," *Held*, that said grants being in the present tense thereby give to the grantees the right of immediate title and possession, and that therefore the condition expressed is in law a condition subsequent, subject to forfeiture upon the election of the State in case of noncompliance by the grantee and that, inasmuch as there was no such election until after the conditions were complied with by the present owner of the uplands, no forfeiture can now be adjudged. *Palmer v. State*, 15 C. C. 55

See CONVEYANCE; CONSTRUCTION.

GRAY, CHARLES W., v. STATE, 12 C. C. 71

GREEN, ADELBERT, v. STATE, 12 C. C. 144.

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HESS, S. F., & CO. v. STATE, 11 C. C.	205.

HIGHWAY.

The raising, in pursuance of chapter 339 of the Laws of 1893, of the New York & Harlem railroad structure in Park avenue, New York city, which was formerly on or partially below the surface of the street, to an elevated structure, deprived the abutting owner of property right in his easements of light and air, and entitled him to compensation of which he could not be deprived either because the structure was erected under a State statute requiring it or because access to his property was increased by the raising of the structure. *Sander v. State*, 11 C. C. 1.

The premises of the claimant are situated on the corner of Broad street and Seventh street in the village of Waterford. The State, pursuant to chapter 147 of the Laws of 1903, known as the Barge Canal Act, constructed a canal across Seventh street some distance from the premises of the claimant. Claimant insists that he is entitled to compensation on account of his property being less accessible and that the construction of the canal across Seventh street constituted a taking of property within the Constitution. *Held*, that the claimant could not recover. *Vogel v. State*, 11 C. C. 151.

The cutting off of a farm from access to a public highway by means of an appropriation of a part of the farm is an element to be taken into account in determining the compensation to which the claimant is entitled and in estimating this element of damage the expense of procuring a new right of way and the distance to the new highway may be considered. *Flannigan v. State*, 15 C. C. 263

Where the State appropriated land for the barge canal and thereby cut off the claimants' access to the public highways, *Held*, that the value of the land taken did not represent the damages which the claimants had sustained, for they were entitled to the damage that the remainder of the farm may have sustained as a result of the deprivation of the farm from access to the public highway. *Guerin v. State*, 15 C. C. 279

Where the State, for Barge canal purposes, appropriates land constituting part of a farm, which appropriation divides the farm into two parts one part of which is cut off from access to the highway and has

HIGHWAYS — Continued.

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no outlet, the claimant is entitled to the market value of the land taken, including whatever in the nature of realty was attached to the land, and is also entitled to a substantial allowance for damages to the property cut off from access to the highway. *Perkins v. State*, 15 C. C. 282

See GOOD ROADS; NEGLIGENCE; DAMAGES; CONTRACT.

HINCKLEY, MARY E., v. STATE, 15 C. C. 95

HOLMES-HUTCHINSON MAPS. *See EVIDENCE; MAPS.*

HOUGH, DAVID L., v. STATE, 15 C. C. 146

HUGHSON, SUSAN B., & ANO. v. STATE, 11 C. C. 37.

HUNT, PURL D., v. STATE, 15 C. C. 145

HYNES, JOHN P., v. STATE, 13 C. C. 49.

IMPROVEMENT OF NAVIGATION.

Where in the construction of a canal the State utilizes one of the inland rivers so far as practicable, and at points where it is impracticable to use the river on account of the fall in the stream constructs the canal around such portion, the canal at such portion is not to be deemed as improvement of the navigation of the river so as to exempt the State from liability for consequential damages arising from its work of improvement. *Fulton Light, Heat and Power Co. v. State*, 13 C. C. 285.

IMPROVEMENT MAP OF 1838. *See EVIDENCE; MAPS.*

INCLINED RAILWAY (NIAGARA RESERVATION).

Where the State owns a reservation like that at Niagara Falls and for its management has created a board whose duty it is to "manage" and "control" the property and pay into the treasury all "rents, issues and profits" thereof, inviting the public to use the reservation and an inclined railway operated in connection therewith, it is bound to use reasonable care to see that persons using the railway are not injured and for the absence of such care and for its negligence, where there is no contributory negligence on the part of the claimant, the State is liable. *Burks v. State*, 13 C. C. 153.

Inda v. State, 13 C. C. 153.

Olszewska v. State, 13 C. C. 153.

Where it appears that in the operation of an inclined railway a rope was used instead of a steel cable which was more suitable and more generally used, that the rope had a smaller number of strands than those of the two preceding years and had become worn in places so that it had become necessary to some extent to wrap the rope in places with burlap, that the break occurred in the rope at one of these points, that the safety device was not sufficient to serve its purposes, was not constructed of proper material or of sufficient strength, that the inspection

INCLINED RAILWAY (NIAGARA RESERVATION) — Continued. Page.
of the railway was superficial and insufficient, there is abundant proof of the State's negligence. *Burks v. State*, 13 C. C. 153.

Inda v. State, 13 C. C. 153.

Olszewska v. State, 13 C. C. 153.

See **NIAGARA RESERVATION**.

INCUMBRANCE. See **PERMANENT APPROPRIATION**.

INDA, ROSALIA, exec., etc., v. STATE, 13 C. C. 153.

INDEPENDENT CONTRACTORS.

Where claimant's property is flooded by the construction of a coffer-dam by a contractor, the flooding resulting from the manner in which the contractor did his work and not arising necessarily out of the contract itself, the contractor and not the State is liable, his relation being that of an independent contractor. *Hunt v. State*, 15 C. C. 145

See **CONTRACT**.

INTEREST.

Interest earned by the State upon a deposit is recoverable in a claim for breach of contract to the date of final accounting if made within reasonable time with legal interest thereafter; also legal interest on the unearned profits from the date of the final account if made within a reasonable time after the breach of the contract. *Baker v. State*, 12 C. C. 3.

JOHNSON, JANE B., v. STATE, 13 C. C. 55.

JOY, LEON S., v. STATE, 12 C. C. 238.

JUCKETT, BYRON D., v. STATE, 13 C. C. 88.

JUDGE OF COURT OF APPEALS.

Earl v. State, 13 C. C. 33.

JURISDICTION.

Where the waters of a creek carry down dirt and gravel and form a bar at the mouth of the creek in the bottom of an abandoned canal, and in time of heavy rain the bar so formed causes the waters of this creek to back up and overflow claimant's property: *Held*, that the creek which overflowed being no part of the canal system of the State, without an enabling act the Court of Claims had no jurisdiction of the claim. *Freer v. State*, 11 C. C. 9.

By section 264 of the Code of Civil Procedure the Court of Claims has jurisdiction to hear a private claim against the State, but it is likewise true that the sovereign power cannot be sued without its consent. No such consent is shown or pleaded in this claim. No claim on behalf of a citizen can be maintained against the State for injuries occasioned by the negligence or malfeasance of its agent except when it has by legislative enactment assumed such liability. That no enabling act having been passed by the Legislature conferring jurisdiction upon this

JURISDICTION — Continued.

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court to hear and determine the claim of the claimant, the court has no jurisdiction to hear the same. *Dimmock v. State*, 11 C. C. 23.

A claim against the State cannot be barred by lapse of time so long as there was no tribunal in existence with authority to adjudicate upon it. The State could not be sued unless it created a tribunal to hear and determine such claim as the one at bar. By chapter 163 of Laws of 1904, passed March 28, 1904, the Legislature conferred upon the Court of Claims jurisdiction to hear, audit, and determine such claims and render judgment thereon notwithstanding the lapse of time since the accruing of said claim, provided any claim thereunder shall be filed with the Court of Claims within six months after the passage of the act. This claim was filed September 28, 1904. The Statute of Limitations has no application here and the claimant is entitled to recover. *County of Monroe v. State*, 11 C. C. 34.

Where a canal has been abandoned by the State and damages are occasioned by the use or nonuse which the State makes of the property, the claimant must point to some statute wherein the State has consented to assume a liability for its acts. *Hughson v. State*, 11 C. C. 37.

The consent of the State to have its liability determined must be obtained before it can be sued. *Quayle v. State*, 11 C. C. 44.

In order to authorize the consideration of a claim upon its merits by the Court of Claims it must appear not only that the court has had jurisdiction conferred upon it but that the State has consented to have its liability determined. *Quayle v. State*, 11 C. C. 44.

The claim for the balance due under the contract for work done by the claimant's assignor, part of which was rejected by the Comptroller, was brought within the jurisdiction of the court by the amendatory act of 1908 (chap. 519) which provided that "The court has no jurisdiction of a claim submitted by law to any tribunal or officer for audit or determination except where the claim is founded upon express contract and such claim or some part thereof has been rejected by such tribunal or officer." *National Commercial Bank of Albany v. State*, 13 C. C. 239.

Under the statutes conferring jurisdiction upon the court of claims over "private" claims against the State and granting consent on the part of the State to have its liability determined, a resident of another State may maintain a claim against the State for negligence in the maintenance and operation of an inclined railway through which he was injured. *Burks v. State*, 13 C. C. 153.

Where a statute conferring jurisdiction upon the court of claims provides that the court "has jurisdiction to hear and determine a private claim against the State" but that "the court has no jurisdiction of a claim submitted by law to any other tribunal or officer for audit or determination except where the claim is founded upon express contract and such claim or some part thereof has been rejected by such tribunal or officer," (§ 264 of the Code of Civil Procedure) the language does not cover a claim like that of an erroneous or illegal state tax or assessment and does not authorize a submission of such a claim to this court. *Flower v. State*, 15 C. C. 164

JURISDICTION — Continued.

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Where the owner of land appropriated by the State has made a settlement with the State through the State appraiser as to the compensation to be paid him which has however not been paid, and one claiming to have been the lessee of the premises at the time of the appropriation files a claim to have the amount of his damages determined, his remedy is against the fund created by the settlement and not against the State. *Moroney v. State*, 15 C. C. 231

The Court of Claims has no jurisdiction to determine a dispute as to the validity of a lease or the amount of the damages to a tenant where the owner of the land appropriated has made a settlement with the State through the State appraiser and has not been paid and has not been made a party to the proceeding and has not consented to have the issues between him and his tenant passed upon by the court. Where, however, in such a case the owner is made a party to the proceeding brought by the tenant and consents to have the issues between him and his tenant determined, the court has jurisdiction to pass upon the issues involved between them. *Moroney v. State*, 15 C. C. 231

Where the State appropriated land upon which were buildings erected by tenants under a lease whereby they had the right to remove the buildings at the expiration of the lease, *Held* that the awards are made upon the express consent of the parties that the Court of Claims might determine the interests of each. *Rourk v. State*, 15 C. C. 285

Cole v. State, 15 C. C. 285

The Court of Claims is without jurisdiction to apportion the share of an award to the owner which should be paid to each of the tenants where the owner objects to the determination thereof by this court. Claimants' remedy lies before the Comptroller of the State, and if a dispute arises about the value of claimants' leasehold interest, it must be determined in the Supreme Court. *Taylor v. State*, 15 C. C. 305

Fowler v. State, 15 C. C. 305

The Legislature has no power to create a court wherein suitors are compelled to try issues without consent which they have a constitutional right to try in the regular courts and there is nothing in the act creating the Court of Claims which indicates an intention on the part of the Legislature to compel suitors to try issues between them in that court. *Taylor v. State*, 15 C. C. 305

While jurisdiction cannot be created by the consent of parties where the Constitution or the Legislature has not conferred it, it may be waived where it exists, and where the Constitution confers upon certain courts jurisdiction to try certain issues and the Legislature confers upon the Court of Claims jurisdiction to pass upon the same issues where they are involved in a claim made against the State, the parties may waive their constitutional right to have the issues determined in the regular courts and submit themselves to the jurisdiction of the Court of Claims. *Taylor v. State*, 15 C. C. 305

The statutes relating to the Court of Claims and the Barge Canal Act (L. 1903, ch. 147, § 4, as amended by L. 1908, ch. 196), taken together may be fairly construed to mean that the Legislature intended that

JURISDICTION — Continued.

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where all the parties did not consent to have their respective interests the State appropriated, determined by the Court of Claims, a gross award should be made for the aggregate interests and then the parties should be remanded to the regular constitutional courts for a distribution between them of their respective interests. *Taylor v. State*, 15 C. C. . . . 305

JURISDICTION OF COURT OF CLAIMS ENLARGED.

Code of Civil Procedure, sec. 264, as amended by L. 1908, ch. 519.

See CONSENT; STATUTES; TAXES AND ASSESSMENT.

KEITH, GEORGE, v. STATE, 12 C. C. 144.

KEITH, LEWIS, v. STATE, 12 C. C. 144.

KENNEDY, JOSEPH P., v. STATE, 12 C. C. 144.

KINZER CONSTRUCTION COMPANY v. STATE, 15 C. C. 326

KIRBY, GUSTAVUS T., v. STATE, 15 C. C. 246

KLINE, JAY B., v. STATE, 11 C. C. 83.

KLINE, JAY B., v. STATE, 15 C. C. 366

KUHN, HENRY, ET AL. v. STATE, 12 C. C. 246.

LANDLORD AND TENANT.

Where a tenant is in possession of land, and continues in possession without written notice of an appropriation and by agreement with proper State officials, sows his crops and is prevented from harvesting them by a notice to vacate, he is entitled to recover the value of such crops. *Lynch v. State*, 12 C. C. 36.

The State appropriated for the purposes of the new Barge canal the property of D. Before the appropriation D had leased the property to the claimant, B, which lease was duly recorded in the county clerk's office of the county where the property was situated. The lease had five years to run at the time of the appropriation. B, the lessee and claimant, was in the possession and occupancy of the property when it was appropriated. After the appropriation the State made a settlement with D, the owner and lessor, paying him an agreed sum for the property. B, the lessee, in possession and occupancy under the recorded lease was not settled with. *Held*, that any settlement under such conditions, with the owner, D, by the State, could not affect the rights of the claimants, and that they were entitled to recover the value of their lease at the time of the appropriation. *Baker and ano. v. State*, 13 C. C. 22.

Where a lease provides for the erection of structures upon land by a tenant they are to be treated in condemnation proceedings as realty where they form a part of the realty though designated in the lease as personal property removable by the lessee at the expiration or termination of the lease.

LANDLORD AND TENANT — Continued.

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Rourk v. State, 15 C. C. 285

Cole v. State, 15 C. C. 285

Where the owner of land appropriated by the State has made a settlement with the State through the State appraiser as to the compensation to be paid him which has however not been paid, and one claiming to have been the lessee of the premises at the time of the appropriation files a claim to have the amount of his damages determined, his remedy is against the fund created by the settlement and not against the State.

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The Court of Claims has no jurisdiction to determine a dispute as to the validity of a lease or the amount of the damages to a tenant where the owner of the land appropriated has made a settlement with the State through the State appraiser and has not been paid and has not been made a party to the proceeding and has not consented to have the issues between him and his tenant passed upon by the court. Where, however, in such a case the owner is made a party to the proceeding brought by the tenant and consents to have the issues between him and his tenant determined, the court has jurisdiction to pass upon the issues involved between them. Moroney v. State, 15 C. C. 231

Where the owner of property and his tenant's assignee appeared in court and consented that their respective claims against the State and each other be determined. *Held*, that the owner was entitled to the value of the premises less the value of the lease, and the lessee's assignee was entitled to the value of the leasehold, which as no witnesses were produced by the State, was estimated to be the difference between the rental value, as testified by the claimants' witnesses, for the unexpired term over and above the rent reserved, deducting the water tax which the lessee was obliged to pay. Riley v. State, 15 C. C. 277

Osley v. State, 15 C. C. 277

Where the State appropriated land upon which were buildings, erected by tenants under a lease whereby they had the right to remove the buildings at the expiration of the lease, *Held*, that the interest of the tenants is the market value of their lease, taking into account all of its items, including the buildings and any other property in the nature of realty they had attached to the soil. The award to the owner is for the value of the fee, which includes structures in the nature of realty attached to the soil. The compensation awarded for the fee must include an amount sufficient to compensate the tenants for the value of their lease including the buildings and other property in the nature of realty they had placed upon the land. The difference between the market value of the fee and the market value of the lease, taking all the elements into account will measure the compensation of the owner. The balance will be the compensation to which the tenants are entitled.

Rourk v. State, 15 C. C. 285

Cole v. State, 15 C. C. 285

Where the State appropriated land upon which were buildings, erected by tenants under a lease whereby they had the right to remove the build-

LANDLORD AND TENANT — Continued.

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ings at the expiration of the lease: *Held*, that as between the owner and the tenant the buildings are to be regarded as personal property, but as between the State and the parties, they are to be treated as a part of the realty. *Rourk v. State*, 15 C. C. 285

Where the State appropriated land upon which were buildings, erected by tenants under a lease whereby they had the right to remove the buildings at the expiration of the lease, *Held*, that the awards are made upon the express consent of the parties that the Court of Claims might determine the interests of each. *Rourk v. State*, 15 C. C. 285

Cole v. State, 15 C. C. 285

The Court of Claims is without jurisdiction to apportion the share of an award to the owner which should be paid to each of the tenants where the owner objects to the determination thereof by this court. Claimants' remedy lies before the Comptroller of the State, and if a dispute arises about the value of claimants' leasehold interest, it must be determined in the Supreme Court. *Taylor v. State*, 15 C. C. 305

Fowler v. State, 15 C. C. 305

McFadden v. State, 15 C. C. 305

Where the State appropriates a block, part of which is occupied by tenants in possession under a written lease, the total amount of damages for which the State is liable is the market value of the premises, out of which must come the leasehold interest. *Taylor v. State*, 15 C. C. 305

McFadden v. State, 15 C. C. 305

Fowler v. State, 15 C. C. 305

LAND OFFICE, COMMISSIONERS OF. *See GRANT.*

LANG, MARY L., v. STATE, 13 C. C. 3.

LASHER, HENRY M., v. STATE, 11 C. C. 128.

LEAKAGE, OVERFLOW AND FLOODING.

Where the State of New York built a canal in the vicinity of the claimant's property years ago but abandoned this canal and constructed a new one, and in the construction of said new canal cut off certain pipes that were laid across the claimant's land from the old canal to the present Erie canal, and by reason of the cutting off of the said pipes the claimant's property was flooded: *Held*, that the State had a right in the construction of the new canal to sever these pipes and that it was not liable for any damage that might be done thereby to the claimant's property and that the claim should be dismissed. *McIntyre v. State*, 11 C. C. 25.

Freer v. State, 11 C. C. 9.

Where a permanent easement to flood land has been acquired under the Revised Statutes (§§ 48, 52), Laws 1830, chapter 293, and Laws 1866, chapter 836, any claim for damages resulting from the flooding was not revived by Laws 1870, chapter 321, which applied only to a class of claims which had not been provided for previously. *Ely v. State*, 11 C. C. 65; *Smith & Powell Co. v. State*, 11 C. C. 87.

LEAKAGE, OVERFLOW AND FLOODING — Continued.

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The State must respond in damages where it negligently turns water upon the land of another which water without the intervention of the State would not find its way there naturally and thereby causes damage, but where the State turns water upon the land of another, which land was flooded and damaged previously from natural causes, the State is not liable where all of the damages were occasioned before the State's trespass, even though without legal right it mingles the surplus water from the canal with the flood water. If the State negligently turns water from a feeder upon the land of another where it mingles with flood waters from a creek and the combined waters cause damages the State is not liable for all of the damages occasioned but only for such portion as it actually causes. *Ostrander v. State*, 11 C. C. 175.

Ostrander, Charles, v. State, 11 C. C. 72.

Acer v. State, 11 C. C. 72.

Post v. State, 11 C. C. 72.

Where the State constructs a feeder utilizing a creek for a portion of the way as a part of the feeder and connects three separate watersheds, negligently permits gates at the head of the feeder to become out of repair so as to allow water to escape through or under them, and allows the banks of the feeder to become depressed in places and out of repair, it is liable for damages occasioned by flooding due to its negligent acts. *Ostrander, J. N., v. State*, 11 C. C. 175.

Ostrander, Charles, v. State, 11 C. C. 72.

Acer v. State, 11 C. C. 72.

Post v. State, 11 C. C. 72.

Where the State without legal right turns water upon the land of another causing all the damages and subsequently other water from natural sources mingles with those of the State, the State must respond for all of the damages as the sole source of damage. Where all the damage to land occurs from natural causes resulting from the overflow of a creek the State is not liable for any damages though without legal right it mingles with the flood surplus water from the canal. Where part of the damages resulting from flooding are occasioned by water which the State without legal right turns upon the land of another and part are due to the natural overflow of a creek, the State is liable only for such portion of the damages as it actually occasions.

Carhart v. State, 11 C. C. 128.

Lasher v. State, 11 C. C. 128.

Cook v. State, 11 C. C. 128.

Negligence in discharging surplus water of canal into creek and flooding land thereby, see *Carhart v. State*, 11 C. C. 128.

Lasher v. State, 11 C. C. 128.

Cook v. State, 11 C. C. 128.

When in 1880 the State constructed a dam at the foot of Sixth lake and the owners of land flooded filed a claim against the State, and an award was made against the State for the flooding of all lands that would be flooded by a dam at the foot of said lake with a flow line ten and one-half feet above the apron of the dam and the State paid the award: *Held*.

LEAKAGE, OVERFLOW AND FLOODING — Continued.

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that the State had acquired the right to maintain a dam, the flow line of which should not exceed ten and one-half feet above the apron of the dam, and that in case of floods raising the general surface of the lake to a higher level, the State was not liable. *Rowe v. State*, 11 C. C. 165.

The State is liable for the damages occasioned by the escape of water from the canal through the negligent maintenance of the walls of the canal, even though the damages arise in the course of the excavation of private property near the canal for the purpose of building and even though a part of the excavation is on land filled in which formerly formed a part of a canal basin. *Duffy v. State*, 11 C. C. 182.

Where the State negligently allows water to escape through the banks of the canal so as to injure adjacent property it is liable for the damages occasioned. *Duffy v. State*, 11 C. C. 182.

Where the State negligently allows its canal banks to leak and thus injures crops, it is liable for the damages caused thereby. *Fagan v. State*, 12 C. C. 115.

Where the basis of the claim is negligently operating canal gates so that the claimant's land was flooded, the claimant cannot recover unless he establishes a want of that care of action which the State owed to him. *Harris v. State*, 12 C. C. 22.

Where the State negligently turns water from a canal into a creek and thus floods private land adjacent to the creek, it is liable for the damages caused by it where they would not have occurred but for the intervention of the State. *Harris v. State*, 12 C. C. 33.

Where damages are claimed for negligent flooding of land by the State arising from original construction of the canal due to interference of natural drainage for which compensation was or is presumed by lapse of time to have been made, they must be separated from the damage due to the negligent construction or maintenance of the canal resulting in a continuous trespass. *Keith v. State*, 12 C. C. 144.

Where the State utilizes a creek as a part of its canal system and in leaving the creek discharges in a negligent manner surplus water of the canal into the continuing channel of the creek, it is liable for the damages occasioned thereby to property bordering upon such channel. *Juckett v. State*, 13 C. C. 88.

Where a claim is filed to recover damages occurring from the alleged negligence of the State, its officers or servants, in the care and management of the canal, and where there is a conflict of testimony, the claimant is bound to prove by a fair preponderance of evidence that the injury was caused by the negligence of the State. *Parker v. State*, 13 C. C. 17.

Negligence on the part of the State in the alleged flooding of land bordering upon a canal will not be inferred from the bare fact that before certain improvements were made on the canal the land was dry and that after the improvements the land was wet, it being necessary to show that the water which it is claimed caused the damage came from the canal and was due to the State's negligence. *Perkins v. State*, 13 C. C. 96.

LEAKAGE, OVERFLOW AND FLOODING — Continued.

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Where the State negligently maintains the banks of its canal so as to allow them to leak and discharge water upon adjacent property, it is liable for the damages occasioned thereby. *Riggs v. State*, 13 C. C. 110.

Where premises in a somewhat deteriorated condition are flooded through the negligent acts of the State causing damages to the structures and a loss of rents, the owner of the premises is entitled to the cost of making reasonable repairs to put his premises in a tenantable condition and to the loss of rents occasioned by the negligent acts of the State. In such a case the owner is not entitled to the diminution in the market value of the premises in addition to the cost of making repairs and the loss or rents. *Stevens v. State*, 13 C. C. 111.

Where claimant's property is flooded by the construction of a cofferdam by a contractor, the flooding resulting from the manner in which the contractor did his work and not arising necessarily out of the contract itself, the contractor and not the State is liable, his relation being that of an independent contractor and the rule being well settled that there is no liability on the part of the State for acts similar to those referred to where it enters into a contract with a competent contractor, doing an independent business, who agrees to furnish materials and labor and make the entire improvement according to specifications prepared in advance for a lump sum or its equivalent, even when it reserves the right to change, inspect and supervise to the extent necessary to produce the result intended by the contract, providing the plant is reasonably safe, the work is lawful and is not a nuisance when completed and there is no interference therewith by State officers which results in injury. *Hunt v. State*, 15 C. C. 145

The State is liable only for damages caused by its own negligent acts, or to put the statement in another form, where damages are claimed for leakage from the canal, it is not liable if the damages claimed to have been suffered by leakage would have occurred notwithstanding its negligence. *Cowles v. State*, 15 C. C. 287

Where the proof clearly shows that the State was negligent in the care of the canal bank and that water come through the break and actually invaded the trenches and works of the claimant, a contractor engaged in building a sewer, and caused him considerable damage, the claimant should be allowed the damages which he has proven were caused thereby. *Cowles v. State*, 15 C. C. 287

In a claim for damage from leakage, where it appeared that former recoveries had been had for the same alleged negligence on the part of the State, and the Court was satisfied that the claimant had not exerted himself to avoid the recurrence of damages, and where the testimony was of a somewhat general nature and claimant's books, which he asserted showed his losses in rent, were not in court, and no tenant was sworn to show he had moved out of claimant's premises because of their wet condition, and as only a slight expense was required to obviate any further damage. *Held*, That an award for a small sum was sufficient to cover all the damages for which the State should respond, and it was the duty of the claimant to use all reasonable measures to reduce his damages as much as possible. *Stevens v. State*, 15 C. C. 301

LEAKAGE, OVERFLOW AND FLOODING — Continued. Page.

Where it appears that a culvert for carrying away waters of a stream in times of flood was not improperly constructed, and that it was of sufficient capacity to take care of all ordinary rains and such as naturally would be expected in the locality, the State is not liable for damages resulting from the failure of the culvert to carry off the water resulting from the fall of rain during an unusual storm. *New England Brick Co. v. State*, 15 C. C. 313

Where it appears that a culvert for carrying off the waters of a stream in times of flood has been kept free and clear of obstructions by the State, and it further appears that the claimant has been in the habit of dumping refuse wood and brick on the banks of the creek, a portion of which during an unusual storm washed down stream against the culvert, the State cannot be held liable for damages resulting to the claimant from flooding of the claimant's premises, due to the choking of the culvert by the washing down of the material against it. *New England Brick Co. v. State*, 15 C. C. 313

See NEGLIGENCE.

See BUTTERNUT CREEK; CHITTENANGO CREEK; GLENN CREEK; LIMESTONE CREEK; OAK ORCHARD CREEK; OAK ORCHARD FEEDER; TONAWANDA CREEK; WHITNEY CREEK.

LEASE.

Construction of, where tenants had right to remove buildings at expiration of. *See Rourk v. State*, 15 C. C. 285

Cole v. State, 15 C. C. 285

See LANDLORD AND TENANT.

LEHIGH VALLEY RAILWAY COMPANY v. STATE, 15 C. C. 226

LENOX, TOWN OF, v. STATE, 12 C. C. 159.

LE STRANGE, FREDERICK, ETC., v. STATE, 12 C. C. 249.

LETTERS PATENT. *See GRANT.*

LIEN. *See PERMANENT APPROPRIATION.*

LIFT BRIDGE. *See BRIDGE.*

LIGHT. *See HIGHWAY.*

LOCK TENDER. *See WAGES.*

LOGAN, WILLIAM J., v. STATE, 15 C. C. 161

LYNCH, EDWARD, v. STATE, 11 C. C. 122.

LYNCH, PATRICK, v. STATE, 12 C. C. 36.

LYNCH, RICHARD C., and ano. v. STATE, 12 C. C. 270.

MAPS.

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Effect of filing map, description and certificate of property to be appropriated and service thereof on one or more claimants as tenants in common. *Hinckley v. State*, 15 C. C. 95

When ancient documents. *Miller v. State*, 15 C. C. 266

The Holmes-Hutchinson maps of 1834, the Improvement Map of 1838, and the Evershed Maps of 1875, were made pursuant to statute and are competent evidence to prove the State's title to land along Tonawanda creek. *Pierce v. State*, 15 C. C. 260

Prior to the enactment of the Canal Law (L. 1894, ch. 338) there was no provision of law requiring any map to be made or filed or served upon the property owner of lands to be appropriated by the State. *Miller v. State*, 15 C. C. 266

Where the title to canal land appropriated prior to the enactment of the Canal Law of 1894 is in dispute, the State may prove its title by showing the actual construction of its canal and works thereon, the Holmes-Hutchinson maps of 1834, the Evershed map of 1875, official records, maps and documents and any other competent evidence which bears upon the title. *Miller v. State*, 15 C. C. 266

The original Holmes-Hutchinson maps of 1834 or a duly certified copy of a portion thereof may be offered in evidence upon the subject of the ownership of canal land by the State and are presumptive evidence of the title of the State although copies thereof were not filed in the county clerk's office where the land is situate. *Miller v. State*, 15 C. C. 266

A map made over 30 years ago for the construction of an improvement of the canal and the appropriation of land necessary therefor produced from a Division Engineer's office of the State may be introduced in evidence as an ancient document bearing upon the possession and title of the State to land included within territory proposed to be appropriated according to the map. *Miller v. State*, 15 C. C. 266

The so-called Evershed maps of 1875 being over 30 years of age, having been shown to be prepared pursuant to legislative authority and having been produced from the State Engineer's office at Albany, the legal custodian of the maps, or a certified copy of a part of such maps are not presumptive evidence of the title to canal lands because not properly authenticated as required by statute, but are competent evidence of the title of the State to the land included within the blue line shown upon the maps. *Miller v. State*, 15 C. C. 266

See PERMANENT APPROPRIATION; EVIDENCE.

MAYER, ALEXANDER U., v. STATE, 11 C. C. 197.

MAYNARD, JOHN S., and ano., v. STATE, 15 C. C. 291

McCAMMON, GEORGE, v. STATE, 12 C. C. 20

McDONALD, DAVID, v. STATE, 12 C. C. 79.

McFADDEN, WILLIAM D., v. STATE, 15 C. C. 305

McINTYRE, LENA B., and ano., v. STATE, 11 C. C. 25.

McKEE, JEANNETTE E., and ano., v. STATE, 13 C. C. 220.

MEASURE OF DAMAGES.

Measure of damages discussed generally. *Stevens v. State*, 13 C. C. 111.

See DAMAGES.

MENAPACE, HENRY, BY GUARD., v. STATE, 13 C. C. 91.

MILLER, JOHN R., v. STATE, 15 C. C. 266

MILTON, THOMAS M., v. STATE, 15 C. C. 300

MONROE, COUNTY OF, v. STATE, 11 C. C. 34.

MORGAN AND ANO. v. STATE, 12 C. C. 38.

MORONEY, MARTIN J. v. STATE, 15 C. C. 231

MOTION.

An application to bring in a party under the authority of section 281 of the Code of Civil Procedure should be refused where it appears that the State makes no claim against the party and the party no claim against the State and the only issue being one between the party and the claimant. *Elmore & Hamilton Contracting Co. v. State*, 13 C. C. 401.

MULVIHILL, MARGARET, etc. v. STATE, 12 C. C. 17.

NATIONAL COMMERCIAL BANK OF ALBANY v. STATE, 13 C. C. 230.

NAVIGABLE STREAMS.

Under the law it is not necessary that a stream navigable in fact shall be actually navigable for its entire distance to make it a so-called navigable stream, but it may be navigable in fact in certain places and un-navigable in fact in other places and in such portions as are not navigable in fact the law applicable to streams not navigable in fact applies. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

Where a part of a stream is actually unnavigable by reason of rapids or falls and it does not appear that at any time it has actually been used for purposes of commerce or navigation, such portion is to be treated as non-navigable in fact with all the rights attaching to streams of that character and these rights are not affected by the fact that above or below the unnavigable portion there are reaches that are actually navigable. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

Where the construction of a canal by the State utilizes one of the inland rivers so far as practicable and at points where it is impracticable to use the river on account of the fall in the stream, constructs the canal around such portion, the canal at such portion is not to be deemed as improvement of the navigation of the river so as to exempt the State from liability for consequential damages arising from its work of improvement. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

See RIPARIAN RIGHTS.

NAVIGATION. *See* IMPROVEMENT OF NAVIGATION.

NEGLIGENCE.

A claimant is negligent in not observing an obstruction in the travel path, while driving his team drawing a heavy load up a steep approach. *Joy v. State*, 12 C. C. 238.

Where the State constructed a bridge over the canal which was abandoned except for drainage purposes by the State and did not provide a railing, which resulted in the claimant walking off the bridge into the canal without any negligence on her part, the State is liable. *Van Alstyne v. State*, 11 C. C. 157.

The State could not negligently cause water to fill the trenches of the claimant and otherwise damage him without making compensation therefor, any more than it could negligently throw earth, rock or any other substance upon his works to his injury. *Cowles v. State*, 15 C. C. 287

Where the State negligently allowed water from the canal to flood claimant's works, it committed a trespass upon claimant's rights that could not be distinguished by the fact that he was merely a contractor in the streets and not the owner of the land upon which the trespass was committed. *Cowles v. State*, 15 C. C. 287

The State is liable only for damages caused by its own negligent acts. or to put the statement in another form, where damages are claimed for leakage from the canal, it is not liable if the damages claimed to have been suffered by leakage would have occurred notwithstanding its negligence. *Cowles v. State*, 15 C. C. 287

Under such circumstances, the burden of showing the facts from which it could be deduced that the water that came into the trenches through the drilled holes was water for which the State was responsible, was upon the claimant, the court not being allowed to speculate upon this branch of the case but being forced to look to the evidence for proof of the alleged fact that the water which filled claimant's trenches, aside from that which came from the break, was water from the canal. *Cowles v. State*, 15 C. C. 287

See CATHERINE STREET BRIDGE, SYRACUSE; CHAPEL STREET BRIDGE, LOCKPORT; ERIE STREET BRIDGE, BUFFALO; EXCHANGE STREET BRIDGE, ROCHESTER; PLYMOUTH AVENUE BRIDGE, ROCHESTER; SALINA STREET BRIDGE, SYRACUSE; STATE STREET BRIDGE, BUFFALO; STATE STREET BRIDGE, SYRACUSE; TWENTY-THIRD STREET BRIDGE, WATERVLIET; WEST MAIN STREET BRIDGE, ROCHESTER.

See LEAKAGE, OVERFLOW AND FLOODING; PERSONAL INJURY; BRIDGES; CULVERTS.

NEW ENGLAND BRICK CO. v. STATE, 15 C. C. 313

NEWTON, WILLIAM H., AND ANO. v. STATE, 13 C. C. 246.

NEWTON, WILLIAM H., AND ANO. v. STATE, 13 C. C. 247.

NIAGARA RESERVATION.

Where the State owns a reservation like that at Niagara Falls and for its management has created a board whose duty it is to "manage" and "control" the property and pay into the treasury all "rents, issues and profits" thereof, inviting the public to use the reservation and an inclined railway operated in connection therewith, it is bound to use reasonable care to see that persons using the railway are not injured, and for the absence of such care and for its negligence, where there is no contributory negligence on the part of the claimant, the State is liable. *Burks v. State*, 13 C. C. 153.

In conducting a reservation like the Niagara Reservation managed as stated by commissioners and operating an inclined railway for the use of which it exacts a fare from passengers, the State is not discharging a governmental function and is liable like a private corporation under the same facts. *Burks v. State*, 13 C. C. 153.

Under such conditions where the State exacts a fare for the use of the inclined railway by passengers it is to be treated in its relation to them as a common carrier and is bound to exercise more than ordinary care, and for the absence of such care it is liable, provided the claimant is free from contributory negligence. *Burks v. State*, 13 C. C. 153.

NON-NAVIGABLE STREAM.

Construction of conveyance of land bounded by, *see* *Hinckley v. State*, 15 C. C. 95

NON-RESIDENT. *See* JURISDICTION.

NOTICE.

Where a claim for negligence, in allowing an aqueduct to leak and fill up the arches over a creek with accumulations of ice, rests upon a notice given to an officer of the State of the conditions, no recovery can be had where it appears that had the officer acted promptly upon the receipt of the notice, the damages would have happened despite anything that the State could have done. *Town of Whitestown v. State*, 13 C. C. 269.

NUSSBAUM, MYER, v. STATE, 11 C. C. 147.

OAK ORCHARD CREEK (GENESEE COUNTY).

Where the State constructs a feeder utilizing a creek for a portion of the way as a part of the feeder and connects three separate watersheds, and negligently permits gates at the head of the feeder to become out of repair so as to allow water to escape through or under them, and allows the banks of the feeder to become depressed in places and out of repair, it is liable for damages occasioned by flooding due to its own negligent acts. *Ostrander v. State*, 11 C. C. 175.

Ostrander v. State, 11 C. C. 72.

Acer v. State, 11 C. C. 72.

Post v. State, 11 C. C. 72.

Gray v. State, 12 C. C. 71.

McDonald v. State, 12 C. C. 79.

Zimmerman v. State, 12 C. C. 88.

O'BRYAN, LINA, ADMX., v. STATE, 15 C. C. 295

OFFICERS. *See* PUBLIC OFFICERS.

OLSZEWKA, VERONICA, v. STATE, 13 C. C. 153.

ONEIDA RIVER.

PERMANENT APPROPRIATION:

Vincent, Hattie A., v. State, 15 C. C. 229

ONTARIO KNITTING COMPANY v. STATE, 15 C. C. 371

OSLEY, ELIZABETH, v. STATE, 15 C. C. 277

OSTRANDER, CHARLES, v. STATE, 11 C. C. 72.

OSTRANDER, JAY N., v. STATE, 11 C. C. 175.

OSWEGO RIVER.

The rule as to the Oswego river, a nontidal, a nonboundary stream, is that the title to the bed and the riparian rights incident thereto go with the ownership of the land bounding the stream unless reserved. Fulton Light, Heat & Power Co. and ano., v. State, 12 C. C. 179

OVERFLOW. *See* LEAKAGE, OVERFLOW AND FLOODING.

PALMER, LOWELL M., ET AL. v. STATE, 15 C. C. 55

PARK AVENUE IMPROVEMENT. *See* HIGHWAY.

PARKER, ROBERT, v. STATE, 13 C. C. 17.

PARTY.

Where upon the hearing of a claim for permanent appropriation it appears that other parties than those named in the claim have an interest in the claim, they will be brought in by consent, and the interest of each determined and an award made accordingly. Kuhn and Buffalo, Rochester & Lockport Ry. Co. v. State, 12 C. C. 246.

An application to bring in a party under the authority of § 281 of the Code of Civil Procedure should be refused where it appears that the State makes no claim against the party and the party no claim against the State and the only issue being one between the party and the claimant. Elmore & Hamilton Contracting Co. v. State, 13 C. C. 401.

PATENTS. *See* GRANT.

PECKSPORT BRIDGE (Madison County).

Under the provisions making the State liable only where upon the same facts an individual or corporation would be liable (Canal Law, § 47; Code of Civ. Proc., § 264) the state is entitled to the benefit of the provisions of the Highway Law (L. 1890, ch. 560, § 154; L. 1909, ch. 30, § 331) relating to the load which town bridges are required to bear.

O'Bryan v. State, 15 C. C. 295

PECKSPORT BRIDGE (Madison County)—Continued. Page.

Where the statute exempting a town from liability for the collapse of a bridge under a load of four tons or over (L. 1890, ch. 30, § 154) was amended by increasing the load to eight tons or over, the State has a reasonable time after the amendment takes effect to reconstruct its bridges to meet the requirements of the increased load and where an accident occurs 103 days after the amendment takes effect a reasonable time has not elapsed to charge the State with negligence for delay in reconstructing a bridge which fell with a load exceeding four and one-half tons. *O'Bryan v. State*, 15 C. C. 295

The State was held to be exempt from liability where an engineer undertook to drive over a canal bridge in a town a load weighing four and one-half tons and he was held to have assumed the risk in passing over the bridge where he had examined the bridge and after such examination reached the conclusion that it was safe and undertook to cross and went down with the bridge. *O'Bryan v. State*, 15 C. C. 295

PERKINS, ALBERT E., ET AL. v. STATE, 13 C. C. 96.

PERKINS, LAVINIA C., v. STATE, 15 C. C. 282

PERMANENT APPROPRIATION.

Where land is permanently appropriated for a State fish hatchery under an enabling act which provided that upon failure to agree the claimant may submit his claim to the Court of Claims for the value of such land, the claimant is entitled not only to the value of the land taken but to the damages to the remainder of the land not taken. *Booneville v. State*, 12 C. C. 173.

Where after an appropriation by the State of land covered by an unpaid assessment there is a foreclosure of the assessment and in the judgment an apportionment of the assessment upon the land actually taken, so much of the award as represents the value of the land taken which is covered by the apportioned assessment must be paid to the party designated in the judgment in satisfaction of the assessment. *McKee and ano. v. State*, 13 C. C. 220.

Upon the service of a notice of appropriation by the State upon the owner the appropriation is complete and the owner becomes divested of his land and becomes entitled to a claim against the State for the compensation to which he may be entitled under the constitution, and the purchaser of the land under proceedings taken to foreclose an assessment acquires no right to the award made in the appropriation proceedings. *McKee and ano. v. State*, 13 C. C. 220.

While it is proper to receive evidence as to the quantity of moulding sand on a farm and the availability of the frontage of the farm for building lots as bearing upon the value of the farm, the compensation for the taking of the farm is to be estimated by the market value of the property. *Gregg v. State*, 13 C. C. 38.

Where in 1826 there was no specific appropriation by the State defining the rights acquired by it but long continued possession since that time acquiesced in by both parties, the State and the owner's rights will

PERMANENT APPROPRIATION — Continued.

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be deemed to have been fixed by the acts of the parties confirmed by such documentary and other evidence as is available. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

The rights acquired by claimants through previous appropriations of the State to draw water through certain openings are property rights protected under the constitution and not subject to be taken by the State under its reserved power to improve the navigation of a stream. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

Although the State may have a right to improve the navigation of a stream without making compensation for consequential damages it may still provide for compensation and pay such damages as its acts occasion. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

Where the State appropriates a municipal building in a village for the barge canal its value will not be based upon the cost of reproducing the building nor upon its value to the village but upon the market value of the property in the condition in which it was at the time of the appropriation. *Village of Whitehall v. State*, 13 C. C. 139.

Wood creek, which formed a part of the ordinary route of travel between the Hudson river and Lake Champlain from earliest times, and was used by the Indians and later by the Colonists, was regarded as navigable, and in the patent from the English Crown to Philip Skene, was excepted and reserved "as a common highway for the benefit of the public." Philip Skene having been attainted of treason by the Legislature of the State of New York in 1779, and his lands sold by the Commissioners of Forfeiture, those claiming under the Skene Patent have no interest in the bed of Wood creek, and the State may take a portion thereof for its canal system without compensation to the riparian owners. *Johnson v. State*, 13 C. C. 55.

The State appropriated for the purposes of the new barge canal, the property of D. Before the appropriation D had leased the property to the claimant, B, which lease was duly recorded in the County Clerk's office of the county where the property was situated. The lease had five years to run at the time of the appropriation. B, the lessee and claimant, was in the possession and occupancy of the property when it was appropriated. After the appropriation the State made a settlement with D, the owner and lessor, paying him an agreed sum for the property. B, the lessee in possession and occupancy under the recorded lease was not settled with. *Held*, that any settlement under such conditions, with the owner, D, by the State, could not affect the rights of the claimants herein, and that they were entitled to recover the value of their lease at the time of the appropriation. *Baker and ano. v. State*, 13 C. C. 22.

The filing of a map, description and certificate of property to be appropriated, and the service thereof on one or more claimants as tenants in common but not upon all, effects a tentative appropriation, which becomes complete by service on the others at a later date, but by operation of law, the later service relates back to the earlier and the appropriation is regarded as having been made at that time. The service, whenever made, is part of one transaction and service on a single tenant in common

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paralyzes the action of all, for the property can not be improved except at the owner's risk or sold except at the owner's sacrifice. It would not be equitable for the State to claim that it did not take the property until the last service was made, when the delay of years in completing service is wholly its own fault and it has certified on the map filed at the initiation of the proceeding that the property is necessary for a public improvement, and that it has been permanently appropriated therefor, which involves and finally results in the acquisition of every interest in the land, especially where the property is at once entered upon and taken possession of by the State and the construction of a huge dam for a reservoir is begun thereon. *Hinckley v. State*, 15 C. C..... 95

When a highway, land or water, has been dedicated to the public for a purpose, the sovereign power may take or improve such highway for the same general purpose or object, without compensation. *Champlain Stone and Sand Co. v. State*, 15 C. C..... 181

The power of eminent domain is a natural and inherent attribute of Sovereignty. The Constitutional provision "that private property shall not be taken for public use without compensation" means that the compensation shall be just to the public as well as to the individual. *Champlain Stone and Sand Co. v. State*, 15 C. C..... 181

In case of injuries inflicted through the power of eminent domain, the owner of the property should use reasonable and proper precautions to prevent or decrease the injury and should not be allowed to increase, swell or enhance the injury, or the damages sustained, in bad faith. *Champlain Stone and Sand Co. v. State*, 15 C. C..... 181

In proceedings for determining the compensation for rights taken under the power of eminent domain loss of profits may be taken into account with other elements in determining the value of the property but are not the measure of damages. *Champlain Stone and Sand Co. v. State*, 15 C. C..... 181

The statutes of the State down to the enactment of the Canal Law of 1894, (L. 1894, ch. 338) did not require the making and filing of a map or the serving of a notice of appropriation upon the property owner as a part of the act of appropriation, but merely provided that the State should take possession of the land permanently appropriated, the damages, if any, being obtained through the canal appraisers. *Pierce v. State*, 15 C. C..... 260

By the construction of a dam, raising the water of Tonawanda creek, and flooding the property in dispute, and by the construction of an embankment and ditch, thus entering upon and taking possession not only of the land covered by the embankment and ditch, but of the disputed land intervening between the embankment and Tonawanda creek, the State complied with the statutes relating to permanent appropriations. *Pierce v. State*, 15 C. C..... 260

Prior to the Canal Law (L. 1894, ch. 338) the permanent appropriation of land was complete when the State took possession of the same and if no claim was made within a year after such appropriation the owner lost his interest in the property and the State acquired a title in fee. *Miller v. State*, 15 C. C..... 266

PERMANENT APPROPRIATION — Continued.

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Where it appears from the evidence that Tonawanda creek was a part of the canal system of the State; that the dam was built near its outlet; that it was made navigable; that the Holmes-Hutchinson maps of 1834 of the canal system of the State show the creek as a part of the canal system with a towing path on the southerly side of the creek; that between 1838 and 1842 the State constructed an embankment through the property on the north side of the creek for the purpose of obviating flooding upon which embankment the buildings of claimant were constructed; that the map under which the improvement was made shows a green line indicating the land to be appropriated, which green line included the land in dispute; that this map was over 30 years of age and was produced from the Division Engineer's office of the State; that pursuant to legislative authority maps were prepared of the canal system of the State known as the Evershed maps of 1875, which were filed in the State Engineer's office, a copy of a part of which was offered in evidence showing the land in dispute within the blue line; that an appraisement was made of a two-thirds interest in the land in question for damages arising from the appropriation of the other one-third interest; the State has acquired title in fee to the land in question. *Miller v. State*, 15 C. C. 266

As the original title to most of the land of the State is in the State itself, it is subject to be taken for public purposes by the State upon payment of the market value of the property, which is the compensation provided for by the Constitution. *Smith v. State*, 15 C. C. 293

Where the State Constitution provides that private property shall not be taken for public use without just compensation and that no person shall be deprived of property without due process of law and the statute for the construction of a State canal provides that the State Engineer shall take such property as in his judgment shall be necessary and the lines of the canal are fixed at the time of the appropriation, his judgment must be limited to the actual necessities of the canal as approved and legally planned and an appropriation outside of the lines of the canal though consented to by the owner, not necessary for spoil, buildings or other public purposes in connection with the construction and operation of the canal is unauthorized, illegal and void. *Ontario Knitting Co. v. State*, 15 C. C. 371

Where the State appropriated land upon which there was a factory and an engine and derrick resting upon substantial foundations, all of which were used in connection with the business conducted on the property, *Held*, that the State could not take the bare land and subject the owner to the loss of the depreciation of such structures and machinery as he had placed upon it; that the rule that applied is that which obtains between vendor and vendee, which is that a purchaser of the property would have acquired the engine and derrick with the building as a part of the plant; that there was such an annexation and adaptability of the property as to constitute the engine and derrick a part of the realty; that they were securely attached to the freehold and were used in connection with the business; that they were a part of the plant and essential to the operation thereof and could not be removed except with such a depreciation in value as would amount to an appropriation without just compensation. *Phipps v. State*, 15 C. C. 392

PERSONAL INJURY.

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Where there are open and well known defects in the appliances with which a claimant is working and the place where he is called upon to do his work is unsafe, he is not chargeable with negligence if he remains until injured if he has been promised a reasonable time before the accident that the defects would be remedied and remained relying upon these promises. *Post v. State*, 13 C. C. 99.

Where a person was employed by the State to work on the canal and was injured by the handle of a pile-driver flying from the drum while a weight was descending, the machine having been accidentally thrown into gear: *Held*, that the State was liable. *Hazzard v. State*, 11 C. C. 160.

Where an employee of the State is directed to do certain work and has charge of the work to be done, having previously performed similar work and selects his own tools and appliances and directs their use, the State is not liable if he is injured in the performance of the work. *Ruthenberg v. State*, 11 C. C. 189.

The State is not liable for the negligence of a contractor on the barge canal where he had left unguarded an excavation near a temporary road used by the public into which excavation claimant's team was driven. *Coolidge v. State*, 11 C. C. 200.

Berinstein v. State, 13 C. C. 143.

Burks v. State, 13 C. C. 153.

Clift v. State, 13 C. C. 25.

Giambrone v. State, 13 C. C. 212.

Giambrone, Louis, v. State, 13 C. C. 212.

Hynes v. State, 13 C. C. 49.

Menapace, etc., v. State, 13 C. C. 91.

Olszewska v. State, 13 C. C. 153.

Taft v. State, 13 C. C. 250.

See BRIDGES; NEGLIGENCE; DAMAGES.

PHIPPS, WILLIAM W., v. STATE, 15 C. C. 392

PIERCE, HENRY J., v. STATE, 15 C. C. 260

PILE DRIVER. *See PERSONAL INJURY.*

PLYMOUTH AVENUE CANAL BRIDGE (ROCHESTER).

Claimant seeks to recover damages for a personal injury received by being thrown from his bicycle into the street by the raising of a lift bridge over the canal in the city of Rochester, New York, through the negligence of the State and its servants in raising the bridge while claimant was crossing the same. It appears from the testimony that a gasoline launch was in the canal going west and had signaled for the bridge to be raised. That one of the bridge tenders sounded the gong several times as a signal that the bridge was to be raised, while the other bridge tender took a red light and went into the center of the roadway within a few feet of the bridge to warn persons approaching the bridge. The street approaching the bridge was paved with asphalt and claimant passed the bridge tender without being heard by him. The bridge tender

PLYMOUTH AVENUE CANAL BRIDGE (ROCHESTER)—Continued. Page. saw claimant just as he went on to the bridge and called to him to stop. The claimant rode on to the bridge after the warning signal had been given, passed the bridge tender with the red light, continued on his way across the bridge and rode off the bridge at the further end when it was about a foot above the street and received the injury complained of. *Held*, that there was no negligence shown on the part of the State, and also that claimant was guilty of contributory negligence and could not recover. *Berinstein v. State*, 13 C. C. 143.

POST, ANTHONY, v. STATE, 13 C. C. 99.

POST, ROSWELL W., v. STATE, 11 C. C. 72.

PRESCRIPTION.

Where openings were left in a State dam or pier in the course of the appropriations by the State in 1826 through which since the appropriations riparian owners have been drawing water for the operation of mills, they will not be permitted to claim riparian rights upon the basis of any increased openings. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

Where a dam was constructed in 1865 and flash boards had been used thereon ever since and no claim for flooding resulting therefrom was made by claimant until 1901, the claim is not tenable, as under the Revised Statutes (§§ 48, 52) and Laws 1830, chapter 293, and Laws 1866, chapter 836, the State acquired a permanent easement to flood the land within one year after the premises had been flooded. *Ely v. State*, 11 C. C. 65.

Interruption in the continuity of the user of flash boards does not affect the right to an easement acquired under the statutes unless the circumstances show an intention of abandonment. *Ely v. State*, 11 C. C. 65; *Smith & Powell Co. v. State*, 11 C. C. 87.

Where a dam was constructed in 1865 and flash boards had been used thereon ever since and no claim for flooding resulting therefrom was made until 1896, the claim is not tenable, as under the Revised Statutes (§§ 48, 52), and Laws 1830, chapter 293, Laws 1866, chapter 836, the State acquired a permanent easement to flood the land after the lapse of one year from the time the premises were flooded. *Klein v. State*, 11 C. C. 83.

Where a dam was constructed in 1865 and flash boards had been used thereon ever since and no claim for flooding resulting therefrom was made by claimant until 1900, the claim is not tenable, as under the Revised Statutes (§§ 48, 52), and Laws 1830, chapter 283, and Laws 1866, chapter 836, the State acquired a permanent easement to flood the land after the lapse of one year from the time that the premises were flooded. *Smith & Powell Co. v. State*, 11 C. C. 87.

Periodical cessations in the continuity of the flooding caused by the erection of a dam, without intention of abandoning the right to flood or where the interruptions were due to the interference of others than the

PRESCRIPTION — Continued.

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owner of the dam, does not affect the validity in any prescriptive rights acquired by such flooding. *Hall v. State*, 11 C. C. 109.

See EASEMENT; STATUTE OF LIMITATIONS.

PRIVATE RIGHT OF WAY. *See RIGHT OF WAY.*

PROFITS. *See CONTRACTS.*

PUBLIC OFFICERS.

The State has placed limits upon the power of its officers to contract and incur indebtedness on its behalf. *Logan v. State*, 15 C. C. 161

See also Carroll v. State, 15 C. C. 241

Kirby v. State, 15 C. C. 246

The State may ratify the unauthorized acts of its officers within the limits of constitutional restrictions. *Logan v. State*, 15 C. C. 161

See also Kirby v. State, 15 C. C. 246

Where the Attorney-General entered into a contract with an expert witness to testify in litigation against the State the expense of which exceeded the appropriation made for his use for such purposes his unauthorized acts will be deemed to have been ratified by the State by the passage of a statute making appropriations to meet the expense of such expert testimony. *Logan v. State*, 15 C. C. 161

Where the Attorney-General entered into a contract with a stenographer to take the minutes and furnish copy in a litigation against the State in excess of the appropriation made for his use for such purpose his unauthorized acts will be deemed to have been ratified by the State by the passage of statutes making appropriations to meet the expense of such stenographic hire. *Carroll v. State*, 15 C. C. 241

Where the Attorney-General makes a contract with a stenographer to take the evidence in a litigation against the State and these services continue after the close of his term, an appropriation to pay the services during his term is a ratification of the entire contract to the close of the litigation. *Carroll v. State*, 15 C. C. 241

The office of the Attorney-General is a continuing one. Courts will therefore respect the official legal acts of the office itself without regard to the individual who may for a time be the incumbent thereof. *Kirby v. State*, 15 C. C. 246

The Legislature in making appropriations for a current year for the Attorney-General's office could not foresee the exact amount required for all unanticipated emergencies and contingencies and provide specifically for the payment of each of them. It appropriates an amount for the contingent expenses of the office and leaves the Attorney-General, clothed with the authority of the Executive Law, to safeguard the interest of the State according to the necessities of each case as it arises. The Attorney-General being charged with a positive duty of defending actions brought against the State cannot justify a refusal to perform such duty on the ground that the Legislature has made no appropriation to meet an emergency which it could not foresee. *Kirby v. State*, 15 C. C. 246

PUBLIC OFFICERS — Continued.

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Where a statute authorizes a State Engineer to appropriate such property as in his judgment is necessary, he is required to act in good faith and with a sound discretion and not arbitrarily or capriciously, and an appropriation made without the exercise of a sound judgment which transcends the necessities of public use is unauthorized, illegal and void.

Ontario Knitting Co. v. State, 15 C. C. 371

Where the State Constitution provides that private property shall not be taken for public use without just compensation and that no person shall be deprived of property without due process of law and a statute for the construction of a State canal provides that the State Engineer shall take such property as in his judgment shall be necessary and the lines of the canal are fixed at the time of the appropriation, his judgment must be limited to the actual necessities of the canal as approved and legally planned and an appropriation outside of the lines of the canal though consented to by the owner, not necessary for spoil, buildings or other public purposes in connection with the construction and operation of the canal is unauthorized, illegal and void. Ontario Knitting Co. v. State, 15 C. C. 371

The State is not estopped from questioning the acts of its engineer in making an appropriation when being vested with authority to make appropriations as shall in his judgment be deemed necessary he acts arbitrarily and without the exercise of a sound judgment and appropriates property that is not necessary for the public use. Ontario Knitting Co. v. State, 15 C. C. 371

QUAYLE, OLIVER A., v. STATE, 11 C. C. 44.

RAILING. See **PERSONAL INJURY.**

RAILROADS.

Construction of farm crossings by. Maynard v. State, 15 C. C. 291

RETAINER.

A retainer, in its legal sense, is a sum of money paid to secure the services of the person to be employed, and the sum named as a retainer is due as soon as the person retained accepts the employment. Hough v. State, 15 C. C. 146

See **CONTRACT.**

RICE, ARVIN, AS RECEIVER, ETC., v. STATE, 11 C. C. 148.

RIGGS, MARGARET T. S., v. STATE, 13 C. C. 110.

RIGHT OF ACCESS. See **EASEMENT; HIGHWAY.**

RIGHT OF WAY. See **GOOD ROADS.**

Private right of way; as to constitutional provision providing complete scheme for securing. Perkins v. State, 15 C. C. 282

RILEY, JAMES A., AND ANO., v. STATE, 15 C. C. 277

RIPARIAN RIGHTS.

Where, in the construction of a canal in 1826, the State was authorized by statute to appropriate only such land and water as was necessary and there was no specific appropriation at that time defining the riparian rights acquired by the State except as might be inferred from the acts of the parties and general maps of the canal showing the blue line, only such riparian rights will be presumed to have been appropriated by the State as were authorized by the statute. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

There are four classes of ownership with respect to streams and bodies of water within the State, to wit: (1) those relating to streams and bodies of water which are absolutely owned by the State as public property; (2) those in which the State owns the bed of the stream and a public easement in its waters; (3) those in which the upland owner has title to the bed of the stream and the public have an easement in its waters, and (4) those in which the State has no interest whatever, the stream being the subject of absolute private ownership. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

Where the State, in 1826, acquired riparian rights for a canal without a specific appropriation defining the rights acquired under a statute which authorized it to acquire such rights as were necessary, there remained in the original riparian owners such riparian rights as were not actually necessary for the maintenance and operation of the canal. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

Wood Creek, which formed a part of the ordinary route of travel between the Hudson river and Lake Champlain from earliest times, and was used by the Indians and later by the colonists, was regarded as navigable, and in the patent from the English Crown to Philip Skene was excepted and reserved "as a common highway for the benefit of the public." Philip Skene having been attainted of treason by the Legislature of the State of New York in 1779, and his lands sold by the Commissioners of Forfeiture, those claiming under the Skene Patent have no interest in the bed of Wood Creek, and the State may take a portion thereof for its canal system without compensation to the riparian owners. *Johnson v. State*, 13 C. C. 55.

The claimants are the owners of uplands bounded upon the East river, and also claim to own certain lands under water, their claims being based upon patents issued by the Commissioners of the Land Office to them or their predecessors in title. Upon the Attorney-General's contention that the State may now appropriate the claimants' land under water for barge canal purposes without compensation, *Held*, that the claimants being the owners of uplands bounded upon the river are entitled to all of the riparian rights that are accorded to adjacent owners under the common law. That they have the right of access not only to the river itself, but to the freeway thereof, with the right to receive and ship goods over the same. That as such adjacent owners they are within the provisions of the Public Lands Law, persons to whom the Commissioners of the Land Office were given the power to grant lands under the waters of the river for the purposes mentioned in the act. That it was

RIPARIAN RIGHTS — Continued.

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under these circumstances the patents in question were issued and in reliance upon the validity thereof that the claimants have constructed a bulkhead and piers and filled the same in for the purposes of commerce. That as said bulkhead lines were established by the Harbor Commissioners, and the pierhead lines were established by act of the Legislature and were approved by the Secretary of War, and all of the patents issued by the Commissioners of the Land Office to the claimants were within the lines so established and approved, the claimants are manifestly now entitled to compensation therefor. *Palmer v. State*, 15 C. C. 55

Wood Creek was part of a natural system of water communication between the Hudson River and Lake Champlain. It was used as such from the earliest times by the Indians and later by the Colonists. During this time the use of the stream became dedicated to the public by reason of its having been used by the public from time immemorial. *Champlain Stone and Sand Co. v. State*, 15 C. C. 181

When in 1767 the English Crown granted certain lands, embracing Wood Creek, to the patentees therein named, the Colonial authorities recognizing that Wood Creek had been so used as a common water highway, and that the public by reason of such uses had acquired rights in it, the patent mentioned contained the reservation and exception "Excepting the said Wood Creek, which is reserved as a common highway for the benefit of the public." *Champlain Stone and Sand Co. v. State*, 15 C. C. 181

After the Revolutionary War, Wood Creek passed to the State of New York as the successor of the Crown, and the State received it "as a common highway for the benefit of the public," charged with the public easement therein, and its dedication to the public as a common highway for the benefit of the public. *Champlain Stone and Sand Co. v. State*, 15 C. C. 181

The status of Wood Creek not having changed to the present time, the successors in title to the original patentee have no interest in the bed of said creek, and the lessees of land abutting on the creek have no right to build upon, or maintain over it, a private bridge for the transportation of merchandise. *Champlain Stone and Sand Co. v. State*, 15 C. C. 181

Wood Creek being impressed with navigability by the original patent, the State of New York exercising its paramount right to improve a navigable stream, may take such creek, or portions of the same, for its canal system, without compensation to the owner of the land coming to its banks. *Champlain Stone and Sand Co. v. State*, 15 C. C. 181

See PERMANENT APPROPRIATION.

ROSSOW, GEORGE, AND ANO., v. STATE, 15 C. C. 260

ROURK, MICHAEL, AND ANO., v. STATE, 15 C. C. 285

ROWE, LUCIEN H., v. STATE, 11 C. C. 165.

RUTHENBERG, AUGUST, v. STATE, 11 C. C. 189.

SALARY. *See COURT OF APPEALS.*

SALINA STREET BRIDGE (SYRACUSE).

The State is not liable for the injuries received by a person who uses the towpath for the purpose of visiting the captain of a boat and in doing so falls into an opening underneath a lift bridge, where the opening was used in connection with the operation of the bridge, was necessary for that purpose, was located some distance from the traveled part of the towpath, and apparently necessarily exposed when the bridge was raised. *Scanlon v. State*, 11 C. C. 124. See *Ten Eyck v. State*, 11 C. C. 149.

The administrator's intestate was killed by falling into a pit at the Salina street bridge in the city of Syracuse.

On the evening of the accident the deceased was observed walking behind two women who were approaching the bridge in question. The bridge was being "lifted." When the women neared the bridge they stopped, stood slightly apart and the deceased walked between them and fell into a pit at the end of the bridge.

The accident happened about ten o'clock in the evening of June 3, 1907. The bridge was being raised at the time to permit the passage of canal boats. Before the operator began to raise the bridge a gong was sounded, and a flagman, while it was being raised, stood with a red lamp in his hand near the end of the bridge which the deceased approached. There were red lights on the bridge at the time, and under the needle beam at the ends of the bridge there were also red lights which were exposed when the bridge went up. *Held*, the State was not negligent, and the deceased was guilty of contributory negligence. *Clift v. State*, 13 C. C. 25. See *Mulvihill v. State*, 12 C. C. 17.

When the planking or floor of a canal bridge is about three inches above the surface of a contiguous street sidewalk, it is not such an inherently dangerous elevation that one would reasonably anticipate accidents therefrom; nor is it such a defect that common experience would naturally suggest that injury was likely to be caused by it. *Hynes v. State*, 13 C. C. 49.

See **BRIDGES; NEGLIGENCE.**

SANDER, FREDERICK W., v. STATE, 11 C. C. 1.

SCANLON, CORNELIUS, v. STATE, 11 C. C. 124.

SCHENECTADY, COUNTY OF, v. STATE, 13 C. C. 209.

SEEPAGE. See **LEAKAGE; OVERFLOW AND FLOODING.**

SKANEATELES LAKE.

The State may permanently maintain the water in Skaneateles lake to the height indicated by the canal board which appropriated the waters in 1843 and the State is not liable if the water rises at times through natural causes to a greater height. *Fitzgerald v. State*, 11 C. C. 117.

SMITH, WILLIAM H., AND ANO., v. STATE, 15 C. C. 293

SMITH & POWELL CO. v. STATE, 11 C. C. 87.

SPENCER, ANTHONY, v. STATE, 11 C. C. 114.

STATE PRINTING.

Where contracts for State printing have been made and the State has not authorized the submission of its liability under such contracts to the Court of Claims, such consent will not be implied from the language of the Code of Civil Procedure conferring jurisdiction upon the court. *Quayle v. State*, 11 C. C. 44.

See National Commercial Bank of Albany v. State, 13 C. C. 238.

See CONTRACT.

STATE STREET BRIDGE (BUFFALO).

Giambrone, Carmelia, and ano. v. State, 13 C. C. 212.

See NEGLIGENCE.

STATE STREET BRIDGE (SYRACUSE).

The claimant, a boy eleven years of age, was injured while stepping on the bevelled part of a steel girder of the State Street bridge in Syracuse. The accident occurred on November 27, 1907. The bridge was descending; it had been snowing and the snow was packed on the steel girder of the bridge mentioned. The bridge was coming down in jerks and when a short distance above the level of the street the claimant tried to get on it; in doing so he stepped upon the snow packed bevelled girder, slipped and was injured. There was a foot passage or sidewalk over the bridge at this time, which was intended for the use of, and could have been used by, pedestrians when the bridge was raised. *Held*, the claimant was *sui juris* and responsible for his acts. *Menapace v. State*, 13 C. C. 91.

See BRIDGES.

STATE RESERVATION (NIAGARA). *See NIAGARA RESERVATION.*

STATUTE.

The provision of the Canal Law (§ 37), allowing claims to be filed by any person sustaining damages from the canals, does not apply to an abandoned canal, like the Chemung canal, not enumerated among the canals to which the Canal Law by section 2 is made to apply. *Hughson v. State*, 11 C. C. 37.

Where a permanent easement to flood land has been acquired under the Revised Statutes (§§ 48, 52), Laws 1830, chapter 293, and Laws 1866, chapter 836, any claim for damages resulting from the flooding was not revived by Laws 1870, chapter 321, which applied only to a class of claims which had not been provided for previously. *Ely v. State*, 11 C. C. 65.

Section 37 of the Canal Law does not apply to the abandoned Chemung canal. *Hughson v. State*, 11 C. C. 37.

Revised Statutes, part I, chapter 9, title 9, sections 48, 52, construed in *Ely v. State*, 11 C. C. 65; *Kline v. State*, 11 C. C. 83; *Smith & Powell Co. v. State*, 11 C. C. 87.

Where in the construction of a canal the State was authorized by statute to appropriate only such land and water as was necessary and

STATUTE — Continued.

there was no specific appropriation defining the riparian rights acquired by the State except as might be inferred from the acts of the parties and general maps of the canal showing the blue line, only such riparian rights will be presumed to have been appropriated by the State as were authorized by the statute. *Fulton Light, Heat & Power Co. v. State*, 13 C. C. 285.

Where a statute providing for the construction of good roads contained a provision that the cost of procuring the right of way should be paid by the Comptroller as a part of the cost of the improvement was amended by omitting the latter clause, thus placing the burden upon the county of obtaining the right of way, the amendatory act will not be given a retrospective effect so as to apply to highways in process of construction where condemnation proceedings are pending for the acquisition of the necessary right of way, in view of the Statutory Construction Law which provides that a repeal of a part of a statute should not affect or impair any act done or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal took effect but that the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been effected, unless it clearly appears from the amendatory act that the legislature intended that it should have a retroactive force and should apply to pending improvements and condemnation proceedings. (L. 1898, chap. 115; amended L. 1906, chap. 468.) *County of Schenectady v. State*, 13 C. C. 209.

A claim for the balance due under a contract for work done by the claimant's assignor, part of which was rejected by the Comptroller, was brought within the jurisdiction of the court by amendatory act of 1908 (chap. 519) which provided that "The court has no jurisdiction of a claim submitted by law to any tribunal or officer for audit or determination except where the claim is founded upon express contract and such claim or some part thereof has been rejected by such tribunal or officer." *National Commercial Bank v. State*, 13 C. C. 239.

The State enlarged the time within which a claim might be filed by an amendatory act which provided that: "As to claims which have heretofore been filed in the Court of Claims and which have been dismissed for lack of jurisdiction within three years last passed, the court shall have jurisdiction if the notice to file such claim is filed in the office of the Court of Claims and with the Attorney-General within six months and such claim is filed within one year after this section as amended takes effect." *National Commercial Bank of Albany v. State*, 13 C. C. 239.

The State expressly consented to submit its liability in a claim to the Court of Claims by an amendatory act which provided that: "The State hereby consents in all such claims to have its liability determined." (L. 1908, chap. 519.) Section 264 of the Code of Civil Procedure as amended in 1908 (chap. 519) confers jurisdiction upon the court over claims in tort constituting "private" claims against the State and grants the consent of the State to have its liability determined in the Court of Claims. *Burks et al. v. State*, 13 C. C. 153.

The term "private" as used in § 264 of the Code of Civil Procedure

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conferring jurisdiction upon the Court of Claims is used as the antithesis of "public." *Burks et al. v. State*, 13 C. C. 153.

See CONSENT; ENABLING STATUTE; JURISDICTION.

STATUTE OF LIMITATIONS.

After the running of the Statute of Limitations property owners are presumed to have been compensated for damages to land through which the canal was built. *Keith v. State*, 12 C. C. 144.

Morgan and ano. v. State, 12 C. C. 38.

Where a dam was constructed in 1865 and flash boards had been used thereon ever since and no claim for flooding resulting therefrom was made by claimant until 1901, the claim is not tenable, as under the Revised Statutes (§§ 48, 52), and Laws 1830, chapter 293, and Laws 1866, chapter 836, the State acquired a permanent easement to flood the land after the lapse of one year from the time the premises were flooded. *Ely v. State*, 11 C. C. 65.

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Where a dam was constructed in 1865 and flash boards had been used thereon ever since and no claim for flooding resulting therefrom was made by claimant until 1900, the claim is not tenable, as under the Revised Statutes (§§ 48, 52), and Laws 1830, chapter 293, and Laws 1866, chapter 836, the State acquired a permanent easement to flood the land after the lapse of one year from the time that the premises were flooded. *Smith & Powell Co. v. State*, 11 C. C. 87.

A claim is not barred by the constitutional provision "that neither the Legislature, Canal Board, or any person or persons acting in behalf of the State shall audit, allow, or pay any claim which, as between citizens of the State, would be barred by lapse of time," where there is no evidence in the case from which to calculate the Statute of Limitations except the date of the expiration of the contract, which was within six years of the filing of the claim. *National Commercial Bank of Albany v. State*, 13 C. C. 239.

See PRESCRIPTION; EASEMENT.

Prior to the Canal Law (L. 1894, ch. 338) the permanent appropriation of land was complete when the State took possession of the same and if no claim was made within a year after such appropriation the owner lost his interest in the property and the State acquired a title in fee. *Miller v. State*, 15 C. C. 266

STEVENS, CHARLES, v. STATE, 13 C. C. 111.

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STOCK TRANSFERS. *See TAXES AND ASSESSMENTS.*

STREAM. *See RIPARIAN RIGHTS.*

SUPERINTENDENT OF CANAL.

The State is liable for the arbitrary action of the canal superintendent in maintaining flash boards upon a State dam. *Cuykendall v. State*, 11 C. C. 143; *Dennis v. State*, 11 C. C. 143.

See CANAL; OFFICER.

TAFT, HENRY N., v. STATE, 13 C. C. 250.

TAXES AND ASSESSMENTS.

The remedy against an erroneous tax or assessment which is not void for want of jurisdiction is an appropriate proceeding to review the tax or assessment. *Flower v. State*, 15 C. C. 161

An action cannot be maintained to recover an erroneous tax or assessment where the assessors had jurisdiction, and the tax or assessment is not void until the tax or assessment has been set aside in an appropriate proceeding by the party commencing the action, and even in such cases there must not have been a voluntary payment of the tax or assessment before the proceedings were brought. *Flower v. State*, 15 C. C. 161

An action may be maintained to set aside an illegal tax or assessment and to recover a tax or assessment paid thereunder, or, the tax or assessment having been set aside, to recover the tax or assessment paid, where the assessors were without jurisdiction and the tax or assessment was void, provided the payment was involuntary which is the case where the facts which rendered the tax or assessment illegal are outside the record and are unknown to the person paying the tax or assessment, or will not necessarily appear in any proceeding taken by the purchaser under a tax sale for nonpayment of the assessment to recover possession of the land, or where the payment is made through coercion of law or of fact. *Flower v. State*, 15 C. C. 161

An action cannot be maintained to recover an illegal tax or assessment even where the assessors were without jurisdiction and the tax or assessment was void where the payment was voluntary which is the case where it was made purely under a mistake of law by the payor or where the illegality is based upon facts which appear upon the face of the proceedings which the person paying the tax or assessment had knowledge of or is presumed to have had knowledge of or is based upon facts outside the record of which he had actual knowledge and the payment is without compulsion, duress, fraud or misrepresentation on the part of the payee. *Flower v. State*, 15 C. C. 161

Where the statute providing for a State tax on stock transfers which is constitutional is amended by a statute which is unconstitutional and which imposes a higher rate of taxation, the payment under the later statute in excess of that legally authorized without any protest or coercion is a mistake of law and the payment is a voluntary one and the excess paid cannot be recovered by suit without express legislation authorizing such a suit. *Flower v. State*, 15 C. C. 161

TAXES AND ASSESSMENTS — Continued.

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Where a statute imposing a State tax upon stock transfers provides that the Comptroller may refund the amount of stamps erroneously affixed and cancelled, a suit against the State can not be maintained until this remedy has been exhausted, unless expressly authorized by statute.

Flower v. State, 15 C. C. 161

See PERMANENT APPROPRIATION.

TAYLOR, CHARLES B., AND ANO., v. STATE, 15 C. C. 305

TEMPORARY APPROPRIATION.

Where the State took possession of land for the purpose of constructing a feeder but filed no map of the land and there was no evidence of a permanent appropriation, the possession constitutes a temporary appropriation for which the owner or tenant, according to the facts, is entitled to the value of the use of the land. Morgan and ano. v. State, 11 C. C. 38.

TENANT.

Where a tenant is in possession of land, and continues in possession without written notice of an appropriation and by agreement with proper State officials, sows his crops and is prevented from harvesting them by a notice to vacate, he is entitled to recover the value of such crops. Lynch v. State, 12 C. C. 36.

The State appropriated for the purposes of the new Barge canal the property of D. Before the appropriation D had leased the property to the claimant, B, which lease was duly recorded in the county clerk's office of the county where the property was situated. The lease had five years to run at the time of the appropriation. B, the lessee and claimant, was in the possession and occupancy of the property when it was appropriated. After the appropriation the State made a settlement with D, the owner and lessor, paying him an agreed sum for the property. B, the lessee, in possession and occupancy under the recorded lease was not settled with. *Held*, that any settlement under such conditions, with the owner, D, by the State, could not affect the rights of the claimants, and that they were entitled to recover the value of their lease at the time of the appropriation. Baker and ano. v. State, 13 C. C. 22.

See LANDLORD AND TENANT; PERMANENT APPROPRIATION.

TEN EYCK, LOUIS, AND ANO., v. STATE, 11 C. C. 149.

TONAWANDA CREEK.

Hazzard, Eliza P., v. State, 15 C. C.	260
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Miller, John R., v. State, 15 C. C.	266

TONAWANDA FEEDER.

Where the State constructs a feeder connecting two distinct water sheds and negligently maintains the feeder so that it overflows and damages, the State is liable for the damage which it negligently occasions but not

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for any damage produced by natural causes which would have occurred irrespective of its own negligence. *Acer v. State*, 11 C. C. 72.

Gray v. State, 12 C. C. 71.

McDonald v. State, 12 C. C. 79.

Ostrander, J. N., v. State, 11 C. C. 175.

Ostrander, Charles, v. State, 11 C. C. 72.

Zimmerman v. State, 12 C. C. 88.

TOWN OF WHITESTOWN v. STATE, 13 C. C. 269.**TREES.**

As to damages recoverable where land appropriated was orchard land,
See DAMAGES.

TRIBUNAL. *See JURISDICTION; STATUTE OF LIMITATION.*

TWENTY-THIRD STREET BRIDGE (WATERVLIET).

Where the alleged defects in an approach to a bridge are produced by natural wear and natural conditions and are so slight as not to constitute actionable negligence, the claim should be dismissed. Where the claimant seeks to magnify the alleged defects so as to charge the State with notice and take the claim out of the above rule by showing that others had fallen upon the same step before the accident to claimant, the evidence will not avail him where it does not appear what the weather conditions were at those times. *Taft v. State*, 13 C. C. 250.

UNITED STATES LOAN COMMISSIONERS.

Where, in the sale of certain real estate belonging to the State, the claimant alleged that he procured a purchaser for the land in pursuance of an agreement of brokerage with the United States Loan Commissioners of the county of New York: *Held*, that the Loan Commissioners had no right to make such contract with the purchaser. *Mayer v. State*, 11 C. C. 197.

VAN ALSTYNE, JESSIE M., v. STATE, 11 C. C. 157.

VAN AMBER, MELVILLE W., v. STATE, 12 C. C. 68.

VILLAGE OF WHITEHALL v. STATE, 13 C. C. 139.

VOGEL, JOHN, v. STATE, 11 C. C. 151.

WAGES.

The State may by statute fix the compensation and hours of labor of its employees. *Campbell v. State*, 12 C. C. 9.

An employee on a State scow was held entitled to recover for extra compensation where his right thereto had not been waived by him. *Campbell v. State*, 12 C. C. 9.

A locktender who receives less than the prevailing rate of wages prescribed by statute or works more than the number of hours constituting a day's work by statute (L. 1870, chap. 385; L. 1894, chap. 622) is entitled to recover the difference between the compensation to which he was entitled by the statute and the amount which he actually received. *McCammon v. State*, 12 C. C. 20.

WATER COURSES. *See* RIPARIAN RIGHTS.

WEST MAIN STREET BRIDGE (ROCHESTER).

Where it appeared that the claimant, a boy of eight years of age and upwards, stood deliberately at the end of a lift bridge and placed his foot upon the flagstone on which the iron girders would descend when the bridge was lowered, and the descent of the bridge when lowered was not rapid but required thirty seconds to descend eleven feet; that the descent would have attracted the notice of any person standing near it whose attention was not otherwise engaged; that claimant failed to take that prudence and care which even a child of that age ought to have done; that the descent was slow enough so that if he had noticed the girder even when it was descending to the height of his head or shoulders there was plenty of time to have removed himself from the place of danger: *Held*, that claimant was guilty of contributory negligence and is not entitled to recover for the injury received because of such contributory negligence on his part. *Bristol v. State*, 11 C. C. 14.

Where an employee of the State in charge of a lift bridge over the Erie canal gave warning to claimant intending to cross the bridge that it was about to be raised by giving the warning signal and also the danger signal by swinging his lamp and that notwithstanding the warning the claimant, who was riding a bicycle, came upon the bridge, and that after he was upon said bridge was again warned to stay on as he had not time to cross before it would be raised, but kept on and rode to the other end of the bridge and was thrown to the pavement below and injured: *Held*, the employees of the State in charge of the bridge were not negligent in operating the same and that claimant, in attempting to cross the bridge after the warning signals had been given and after the bridge tender had warned him not to proceed further, was guilty of contributory negligence and cannot recover. *Gillette v. State*, 11 C. C. 20.

See BRIDGES; PERSONAL INJURY.

WILLARD STATE HOSPITAL.

Martin v. State, 11 C. C. 217.

WHITEHALL, VILLAGE OF, v. STATE, 13 C. C. 139.

WHITESTOWN, TOWN OF, v. STATE, 13 C. C. 269.

WOOD CREEK (WASHINGTON COUNTY).

Butler, John M., v. State, 13 C. C. 193.

Champlain Stone and Sand Co. v. State, 15 C. C. 181

Johnson v. State, 13 C. C. 55.

Juckett v. State, 13 C. C. 88.

Parker, Robert, v. State, 13 C. C. 17.

ZIMMERMAN, FRED, v. STATE, 12 C. C. 88.

STATE OF NEW YORK

No. 49.

IN SENATE

MAY 1, 1916.

SUPPLEMENTAL INDEX

COMPILED BY ERNEST A. FAY, CLERK OF THE
SENATE, 1916.

ARGETSINGER. Senate bill, introductory No. 7; printed No. 7, entitled: An act to amend the highway law, in relation to the products of fruit-bearing trees within the bounds of state and county highways.

Date of introduction January 5; referred to Committee on Agriculture; died in Senate.

ARGETSINGER. Senate bill, introductory No. 133; printed No. 133, entitled: An act to amend the election law, in relation to commissioner of elections in the county of Monroe.

Date of introduction January 12; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole January 27; ordered to third reading January 31; passed February 8. Assembly record.—Received from the Senate February 10; referred to the Committee on the Judiciary; returned from Assembly dead.

ARGETSINGER. Senate bill, introductory No. 140; printed No. 140, entitled: An act to amend the highway law, in relation

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THE FIVE HIGHLIGHTS

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1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

the 1990s, the number of people in the United States who are 65 years of age or older is projected to increase from 20 million to 30 million, and the number of people 75 years of age or older is projected to increase from 10 million to 15 million (U.S. Census Bureau, 1996).

[illegible]

the 1990s, the number of people in the world who are under 15 years of age is expected to increase by 1.5 billion, from 1.1 billion in 1990 to 2.6 billion in 2010. The number of people aged 65 and over is expected to increase by 1 billion, from 350 million in 1990 to 1.4 billion in 2010. The number of people aged 15-64 is expected to increase by 1.5 billion, from 1.1 billion in 1990 to 2.6 billion in 2010. The number of people aged 65 and over is expected to increase by 1 billion, from 350 million in 1990 to 1.4 billion in 2010. The number of people aged 15-64 is expected to increase by 1.5 billion, from 1.1 billion in 1990 to 2.6 billion in 2010.

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1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

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1. *Chlorophyll a* and *Chlorophyll b* were determined by the method of Arar and Collins (1971) using a Shimadzu 1601 UV-Visible Spectrophotometer. The concentration of chlorophyll was expressed in $\mu\text{g mL}^{-1}$ of the sample.

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...and the fact that the *Journal* is a journal of the American Psychological Association, the largest and most prestigious of the professional organizations in the field of psychology, is a source of great pride for me.

the 1990s, the number of people in the United States who are 65 years of age or older is projected to increase from 20 million to 30 million, and the number of people 75 years of age or older is projected to increase from 10 million to 15 million (U.S. Census Bureau, 1996). The number of people 85 years of age or older is projected to increase from 2 million to 4 million (U.S. Census Bureau, 1996). The number of people 90 years of age or older is projected to increase from 500,000 to 1 million (U.S. Census Bureau, 1996). The number of people 95 years of age or older is projected to increase from 100,000 to 200,000 (U.S. Census Bureau, 1996). The number of people 100 years of age or older is projected to increase from 10,000 to 20,000 (U.S. Census Bureau, 1996).

Journal of Management Studies, 20(6), 791-806.

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1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 26

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1. *Chlorophyll a* (Chl *a*)

Assembly proposing an amendment to section nine of article four of the constitution, in relation to power of the governor to reduce appropriations in legislative bills before him for consideration.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 312; printed No. 316, entitled: An act to amend the state finance law, in relation to payments from the state treasury.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 313; printed No. 317, entitled: An act to repeal certain acts and parts of acts relating to the port wardens of the port of New York, known also as the board of wardens of such port, to abolish such board and offices and to devolve the powers and duties of such wardens or board with respect to Hell Gate pilots upon the board of commissioners of pilots in the city of New York.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 314; printed No. 318, entitled: An act to amend the canal law, in relation to audit and payment of expenditures on account of the canals.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 315; printed No. 319, entitled: An act to provide for returning to the general fund the unexpended balance of certain existing appropriations and to repeal the acts and parts of acts making such appropriations, with respect to the unexpended balances.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 316; printed No. 320, entitled: An act to amend the education law, in relation to reports by the New York State College of Agriculture and to the payment of moneys appropriated for such college.

DATE OF INTRODUCTION January 28: referred to Committee on Finance: died in Senate.

ARGENTIUS Senate bill introductory No. 317; printed No. 318, entitled: An act to amend the state finance law, in relation to the expenditure of money to be by account and reservation of money: died in Senate.

DATE OF INTRODUCTION January 28: referred to Committee on Finance: reported unfavorably and referred to the Committee of the Whole House 22: returned at third reading March 23; passed March 27. **ARGENTIUS** Senate—Received from the Senate March 28 and referred to the Committee on Ways and Means: reported favorably and returned at third reading April 6: passed April 6: returned at April 7: was reconsidered and recommitted to Committee on Finance April 11: returned from Assembly dead.

ARGENTUS Senate bill introductory No. 318; printed No. 319, entitled: An act to amend section fifteen hundred and twenty of the penal law, relating to impersonation of a port warden.

DATE OF INTRODUCTION January 28: referred to Committee on Finance: died in Senate.

ARGENTUS Senate bill introductory No. 319; printed No. 320, entitled: An act to amend the agricultural law, in relation to the costs and expenditures by the state fair commission.

DATE OF INTRODUCTION January 28: referred to Committee on Finance: died in Senate.

ARGENTUS Senate bill introductory No. 320; printed No. 321, entitled: An act to amend the highway law in relation to the maintenance of state and county highways.

DATE OF INTRODUCTION January 28: referred to Committee on Internal Affairs of Towns, Counties and Public Highways: died in Senate.

ARGENTUS Senate bill introductory No. 321; printed No. 322, entitled: An act to discontinue the New York State Naval School and to provide for returning the ship "Newport"

to the federal government and to repeal chapter three hundred and twenty-two of the laws of nineteen hundred and thirteen providing for the establishment of such school.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 322; printed No. 326, entitled: An act to repeal subdivision three of section two hundred and ninety-one of the highway law, relating to the application of moneys received by the state on account of motor vehicles.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 323; printed No. 327, entitled: An act to amend the education law, in relation to reports by the state school of agriculture at Alfred University and to the payment of moneys appropriated for such school.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 324; printed No. 328, entitled: An act to amend the consolidated laws, and other general acts in relation to change of the fiscal year and to adapting such laws to such change.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 339; printed No. 387, entitled: An act to amend the highway law, generally.

Date of introduction January 31; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

ARGETSINGER. Senate bill, introductory No. 442; printed No. 931, entitled: An act to amend the conservation law, in relation to protection of certain wild birds.

Date of introduction February 7; referred to Committee on Conservation; reported favorably and referred to the Committee

of the Whole March 2; ordered to third reading March 6; amended March 7; passed March 14. Assembly record.— Received from the Senate March 15; referred to the Committee on Conservation; returned from Assembly dead.

ARGETSINGER. Senate bill, introductory No. 457; printed No. 477, entitled: An act to amend chapter three hundred and nine of the laws of nineteen hundred and two, entitled "An act to provide a purchasing agent for the county of Monroe, and to repeal certain existing provisions of law relative thereto," in relation to the appointment of a secretary.

Date of introduction February 8; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; ordered to third reading March 1; passed March 6; reconsidered and restored to third reading March 6; recommitted March 23; died in Senate.

ARGETSINGER. Senate bill, introductory No. 580; printed No. 612, entitled: An act to repeal section one hundred and three of the finance law, relating to the prison fund.

Date of introduction February 21; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 581; printed No. 613, entitled: An act to amend the prison law, in relation to the prison capital fund.

Date of introduction February 21; referred to Committee on Finance; died in Senate.

ARGETSINGER. Senate bill, introductory No. 641; printed No. 1473, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section ten of article eight of the constitution, in relation to limitation of indebtedness of cities.

Date of introduction February 22; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; amended March 30; passed April 5. Assembly record.— Received

from the Senate April 6; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Secretary of State April 17.

ARGETSINGER. Senate bill, introductory No. 667; printed No. 1481, entitled: An act to amend chapter three hundred and thirty of the laws of eighteen hundred and sixty-seven, entitled “An act to amend the incorporation of the village of Fairport in the county of Monroe,” generally.

Date of introduction February 23; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 8; ordered to third reading March 9; passed March 13 (Pr. No. 703). Assembly record.—Received from the Senate March 14; referred to the Committee on Affairs of Villages; committee discharged and substituted for Assembly bill, same title, on third reading, March 15; passed March 15. Record after passage.—Transmitted to Governor March 16; recalled March 27; reconsidered, amended and restored to third reading March 29; repassed April 5; in Assembly, repassed April 6; retransmitted to Governor April 7; chapter No. 198.

ARGETSINGER. Senate bill, introductory No. 669; printed No. 705, entitled: An act to amend the town law, in relation to lighting districts.

Date of introduction February 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; Assembly bill, same title, substituted March 16; passed March 20 (A. Pr. No. 883); chapter No. 99.

ARGETSINGER. Senate bill, introductory No. 812; printed No. 891, entitled: An act making appropriation for the purchase of books and apparatus for schools and school libraries in cities and school districts.

Date of introduction March 6; referred to Committee on Finance; reported favorably and ordered to third reading April 11; Assembly bill, same title, substituted April 12; passed April 19 (A. Pr. No. 1081); chapter No. 387.

ARGETSINGER. Senate bill, introductory No. 813; printed No. 1810, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article seven of the constitution, in relation to apportionment and payment of certain moneys for highway purposes.

Date of introduction March 6; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; amended April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on the Judiciary; returned from Assembly dead.

ARGETSINGER. Senate bill, introductory No. 819; printed No. 1270, entitled: An act to amend the charter of the city of Rochester, generally.

Date of introduction March 6; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; amended March 22; ordered to third reading March 23; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Affairs of Cities; returned from Assembly dead.

ARGETSINGER. Senate bill, introductory No. 916; printed No. 1026, entitled: An act to amend the agricultural law, in relation to the appointment of a state board of agriculture, and defining the powers and functions of such board.

Date of introduction March 13; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 30; died in Senate.

ARGETSINGER. Senate bill, introductory No. 962; printed No. 1081, entitled: An act to amend chapter four hundred and forty-four of the laws of nineteen hundred and fourteen, entitled "An act to authorize a city of the second or third class to adopt a simplified form of government," in relation to the time for presentation of petitions.

Date of introduction March 15; ordered to third reading March 15; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on second reading, March 28; ordered to third reading March 28; passed March 29. Record after passage.—Transmitted to Governor March 30; chapter No. 156.

ARGETSINGER. Senate bill, introductory No. 1060; printed No. 1200, entitled: An act to amend the town law, in relation to the reduction of the number of justices of the peace to one, and the election and powers of town trustees.

Date of introduction March 20; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

ARGETSINGER. Senate bill, introductory No. 1117; printed No. 1363, entitled: An act in relation to the incorporation and government of cities of the third class, constituting chapter sixty-six of the consolidated laws.

Date of introduction March 22; referred to Committee on Affairs of Cities; died in Senate.

ARGETSINGER. Senate bill, introductory No. 1189; printed No. 1361, entitled: An act to amend chapter one hundred and seven of the laws of eighteen hundred and eighty-four, entitled "An act in relation to the collection of taxes in Monroe county, and to authorize and provide for the sale of property for unpaid taxes in said county," generally.

Date of introduction March 24; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; Assembly bill, same title, substituted and passed April 5 (A. Pr. No. 1808); chapter No. 234.

ARGETSINGER. Senate bill, introductory No. 1282; printed No. 1506, entitled: An act to legalize the proceedings of the village of East Rochester in the matter of the paving of a certain

street and the intersections thereof, and the construction of a surface water sewer, the issuance of the bonds of such village for such purposes, and to provide for the payment of such bonds.

Date of introduction March 30; ordered to third reading March 30; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Affairs of Villages; reported favorably and ordered to third reading April 10; passed April 10. Record after passage.—Transmitted to Governor April 12; chapter No. 227.

ARGETSINGER. Senate bill, introductory No. 1324; printed No. 1596, entitled: An act to enable the board of education of union free school district number nine in the town of Perinton, Monroe county, to borrow money for the relief of said school district.

Date of introduction April 5; ordered to third reading April 5; passed April 10. Assembly record.—Received from Senate April 11; referred to the Committee on Public Education; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; chapter No. 256.

ARGETSINGER. Senate bill, introductory No. 1419; printed No. 1806, entitled: An act to amend the election law, in relation to creation and filling of vacancies in the state committee caused by change of boundaries of assembly districts.

Date of introduction April 12; ordered to third reading April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on the Judiciary; returned from Assembly dead.

BENNETT. Senate bill, introductory No. 13; printed No. 13, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to sections six and seven of article four of the constitution, in relation to succession to the office of governor.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 14; printed No. 14, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article seven by adding a new section relating to highways.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 15; printed No. 15, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section fifteen of article three of the constitution in relation to the passage of bills by the legislature, by striking out the authorization for the passage of bills under emergency messages from the governor.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 16; printed No. 16, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section ten of article three of the constitution in relation to the powers of each house of the legislature.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 17; printed No. 17, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section six of article three of the constitution in relation to the compensation and expenses of members of the legislature.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 18; printed No. 18, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article sixteen of the constitution, in relation to future amendments and revisions of the constitution and permitting the validity of an election on a question submitted and the determination of the result of such an election to be contested by an elector in an action brought in the supreme court and

by making provision with respect to questions coincidently submitted by a convention and the legislature.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 19; printed No. 19, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to sections two, three, four, five and eight of article three of the constitution, to repeal section seven thereof and to transfer section six of article ten into article three.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 20; printed No. 20, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section fifteen of article one of the constitution of the state of New York, in relation to Indians.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 21; printed No. 21, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to articles three and ten of the constitution, in relation to changes in the form of county government, and to the powers and duties of certain county, town and village officers.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 22; printed No. 22, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to the constitution by inserting a new article in relation to taxation.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 23; printed No. 23, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section four of article one of the con-

stitution in relation to the writ of habeas corpus and the powers of military courts.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 24; printed No. 24, entitled: Concurrent resolution of the Senate and Assembly to amend sections six and seven of article one of the constitution generally.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 25; printed No. 25, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to sections eighteen and nineteen of article one of the constitution in regard to damages for injuries causing death, laws for the protection of the lives, health or safety of employees, and workmen's compensation for injuries or death from accidents or occupational diseases.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 26; printed No. 26, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article three of the constitution in relation to the power of the legislature to prohibit manufacturing in tenement houses.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 27; printed No. 27, entitled: Concurrent resolution of the Senate and Assembly proposing to amend, generally, article three of the constitution, following section nine, and to repeal sections twenty-three and twenty-five of such article.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 28; printed No. 28, entitled: Concurrent resolution of the Senate and Assembly proposing repealing of section five of article five, and creating a new section to be appropriately numbered.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 29; printed No. 29, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section ten of article eight of the constitution by dividing it into two sections to be known respectively as sections ten and eleven, by amending the second part thereof, and by adding a new section to be known as section twelve.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 30; printed No. 30, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to sections one and four, article four, of the constitution.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 31; printed No. 31, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section eight of article seven of the constitution, in relation to the disposal of canal terminals and surplus waters of the canals and the title to state appropriations.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 32; printed No. 32, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section twenty of article three of the constitution, in relation to the appropriation of public moneys for construction purposes.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 33; printed No. 33, entitled: Concurrent resolution of the Senate and Assembly proposing to amend article six of the constitution generally.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 34; printed No. 34, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section four of article two of the constitution in respect to the enactment of election and registration laws.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 35; printed No. 35, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article three and section four of article four of the constitution, in relation to voluntary sessions of the legislature and the assembly.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 36; printed No. 36, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment repealing sections one, two, three, four, six and seven of article five and creating a new article five, in relation to state officers.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 37; printed No. 37, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section eleven of article eight of the constitution in relation to the duties and powers of the state commission in lunacy.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 38; printed No. 38, entitled: Concurrent resolution of the Senate and Assembly pro-

posing an amendment to section six of article eleven of the constitution in relation to the removal of commissioned officers for absence without leave.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 39; printed No. 1612, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article seven of the constitution, in relation to the contracting of debts by the state.

Date of introduction January 5; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; amended April 5; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Secretary of State April 18.

BENNETT. Senate bill, introductory No. 40; printed No. 40, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section four of article eleven of the constitution, in relation to the appointment of military officers by the governor.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 41; printed No. 41, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section five of article eleven of the constitution, in relation to the manner of election of military officers prescribed by legislature.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 42; printed No. 42, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section twenty-eight of article three of the constitution in relation to the granting or allowing of extra

compensation by legislative bodies or auditing boards, bodies or officers.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 43; printed No. 43, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to insert in the constitution a new article, in relation to the conservation of natural resources.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 44; printed No. 44, entitled: Concurrent resolution of the Senate and Assembly proposing to amend article twelve of the constitution generally, in relation to cities and villages and their powers of self-government.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 160; printed No. 160, entitled: An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and ninety-eight, entitled "An act to consolidate and amend the several acts relating to the corporation called the 'Baptist Missionary Convention of the State of New York,' being chapter one hundred and twenty-eight of the laws of eighteen hundred and seventeen, chapter one hundred and seventy of the laws of eighteen hundred and twenty-five, chapter one hundred and thirty-one of the laws of eighteen hundred and forty-one, chapter forty-one of the laws of eighteen hundred and sixty-two, and chapter eighty-one of the laws of eighteen hundred and sixty-seven," generally.

Date of introduction January 18; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading March 1; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on the Judiciary; reported favorably and ordered to second reading March 22; ordered to third reading March 23; passed March 27. Record after passage.—Transmitted to Governor March 28; chapter No. 138.

BENNETT. Senate bill, introductory No. 329; printed No. 1521, entitled: An act to amend the agricultural law, in relation to reports of sales of produce sold on commission.

Date of introduction January 31; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Agriculture; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to the Governor April 14; not signed by Governor.

BENNETT. Senate bill, introductory No. 330; printed No. 334; Assembly printed No. 1497, entitled: An act authorizing the police commissioner of the city of New York to rehear the charges upon which John C. McGee, formerly a patrolman in the police department of the said city, was dismissed from said department in the year nineteen hundred and two and to reinstate him in the position formerly held by him.

Date of introduction January 31; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading March 1; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading March 15; amended March 15; ordered to third reading March 21; passed March 25. In Senate.—Assembly amendments concurred in March 30. Record after passage.—Transmitted to Mayor of New York April 4; returned from Mayor accepted April 18; transmitted to Governor April 18; chapter No. 617.

BENNETT. Senate bill, introductory No. 348; printed No. 351, entitled: An act to abolish the board of water supply of the city of New York and to transfer its powers and duties to the board of estimate and apportionment of such city.

Date of introduction January 31; referred to Committee on Affairs of Cities; died in Senate.

BENNETT. Senate bill, introductory No. 419; printed No. 438, entitled: An act to amend the code of civil procedure, in relation to taxpayers' actions.

Date of introduction February 7; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 1; recommitted March 23; died in Senate.

BENNETT. Senate bill, introductory No. 420, printed No. 439, entitled: An act to amend section nine hundred and fifty-seven of the code of civil procedure, constituting chapter nine, title five of the laws of nineteen hundred and nine in relation to form of certificates to copies.

Date of introduction February 7; referred to Committee on Codes; died in Senate.

BENNETT. Senate bill, introductory No. 421; printed No. 440, entitled: An act to amend section one hundred and sixty-one of article nine, chapter sixteen of the laws of nineteen hundred and nine, entitled, "An act in relation to counties constituting chapter eleven of the consolidated laws," in relation to the general powers and duties of county clerks.

Date of introduction February 7; referred to Committee on Codes; died in Senate.

BENNETT. Senate bill, introductory No. 445; printed No. 464, entitled: An act to abolish the court house board of the city of New York and to transfer its powers and duties to the board of estimate and apportionment of such city.

Date of introduction February 7; referred to Committee on Affairs of Cities; died in Senate.

BENNETT. Senate bill, introductory No. 724; printed No. 777, entitled: An act to incorporate the Authors' League and Foundation of America.

Date of introduction February 28; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 28. Assembly record.—Received from the Senate March 29; referred to the Committee on the Judiciary; Commit-

tee discharged and substituted for Assembly bill, same title, on third reading, April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; vetoed.

BENNETT. Senate bill, introductory No. 875; printed No. 960, entitled: An act to amend the general municipal law, in relation to the publication of gross receipts and disbursements of cities of the first class.

Date of introduction March 8; referred to Committee on Affairs of Cities; died in Senate.

BENNETT. Senate bill, introductory No. 876; printed No. 961, entitled: An act to amend the Greater New York charter, in relation to the power of removal, discipline and penalties, abolition of positions, suspension without pay, and reinstatement.

Date of introduction March 8; referred to Committee on Affairs of Cities; died in Senate.

BENNETT. Senate bill, introductory No. 1079; printed No. 1223, entitled: An act to amend the conservation law, generally, in relation to fish and game.

Date of introduction March 21; referred to Committee on Conservation; died in Senate.

BENNETT. Senate bill, introductory No. 1394; printed No. 1761, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section four of article four of the constitution relating to the office of governor, the amendment of section nine of article four and the insertion of a new section in article four to be numbered section ten relating to a state budget, the repeal of sections one, two, three, four, five, six and seven of article five relating to certain state officers, boards and commissions, the renumbering of sections eight and nine thereof and the insertion in said article of two new sections to be numbered sections one and two providing for the readjustment of certain state offices and for the office of comptroller, the repeal of sections eleven, twelve, thirteen and fifteen of article eight relating to certain state boards and commissions and the renumbering of section fourteen thereof, and the amendment of section two of

article ten relating to the election and appointment of certain officers.

Date of introduction April 11; referred to Committee on the Judiciary; died in Senate.

BENNETT. Senate bill, introductory No. 1469; printed No. 1919, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article seven of the constitution, in relation to the forest preserve.

Date of introduction April 17; referred to Committee on the Judiciary; died in Senate.

BOYLAN. Senate bill, introductory No. 48; printed No. 48, entitled: An act to amend the Greater New York charter, in relation to the filing of reports of commissioners of estimate and assessment.

Date of introduction January 5; referred to Committee on Affairs of Cities; died in Senate.

BOYLAN. Senate bill, introductory No. 49; printed No. 49, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section fifteen of article three of the constitution, in relation to the manner of passing bills by the legislature.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

BOYLAN. Senate bill, introductory No. 50; printed No. 50, entitled: An act to amend the tax law, in relation to the exemption of real property of certain corporations.

Date of introduction January 5; referred to Committee on Taxation and Retrenchment; died in Senate.

BOYLAN. Senate bill, introductory No. 51; printed No. 51, entitled: An act to amend the tax law, in relation to payment of tax by corporations.

Date of introduction January 5; referred to Committee on Taxation and Retrenchment; died in Senate.

BOYLAN. Senate bill, introductory No. 52; printed No. 52, entitled: An act to amend the public service commissions law, in relation to districts. Date of introduction January 5; referred to Committee on Public Service; died in Senate.

BOYLAN. Senate bill, introductory No. 53; printed No. 1094. entitled: An act to amend the penal law generally, in relation to the possession of firearms.

Date of introduction January 5; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole February 14; amended and recommitted February 23, March 15; died in Senate.

BOYLAN. Senate bill, introductory No. 56; printed No. 56, entitled: An act to release to Anna Wagner all the right, title and interest of the people of the state of New York in and to certain real estate in the borough of Manhattan, city, county and state of New York.

Date of introduction January 5; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 28; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; chapter No. 557.

BOYLAN. Senate bill, introductory No. 80; printed No. 80, entitled: An act to amend the state printing law, in relation to creating the office of superintendent of state printing, prescribing his powers and duties, and making an appropriation therefor.

Date of introduction January 5; referred to Committee on Finance; died in Senate.

BOYLAN. Senate bill, introductory No. 81; printed No. 81, entitled: An act to repeal chapter six hundred and fifty-three of the laws of nineteen hundred and thirteen, entitled "An act to

provide for the adoption of a system for uniform text-books in the schools of Saint Lawrence county, with certain exceptions."

Date of introduction January 5; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

BOYLAN. Senate bill, introductory No. 156; printed No. 156, entitled: An act to amend the real property law, in relation to registering title to real property.

Date of introduction January 18; referred to Committee on the Judiciary; died in Senate.

BOYLAN. Senate bill, introductory No. 256; printed No. 256, entitled: An act to amend the penal law, in relation to Sunday observance.

Date of introduction January 26; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 24; died in Senate.

BOYLAN. Senate bill, introductory No. 257; printed No. 257, entitled: An act to amend the Greater New York charter, in relation to public school teachers' retirement fund.

Date of introduction January 26; referred to Committee on Affairs of Cities; died in Senate.

BOYLAN. Senate bill, introductory No. 258; printed No. 258, entitled: An act to amend the education law, in relation to experimentation upon living animals in the common schools of the state.

Date of introduction January 26; referred to Committee on the Judiciary; died in Senate.

BOYLAN. Senate bill, introductory No. 259; printed No. 259, entitled: An act to prevent cruelty by conferring upon the Board of Regents of the University of the State of New York the power of supervision of experiments on living animals.

Date of introduction January 26; referred to Committee on the Judiciary; died in Senate.

BOYLAN. Senate bill, introductory No. 430; printed No. 449, entitled: An act to amend the tax law, in relation to subjecting to the state franchise tax on corporations certain corporations which are now exempt.

Date of introduction February 7; referred to Committee on Taxation and Retrenchment; died in Senate.

BOYLAN. Senate bill, introductory No. 431; printed No. 450, entitled: An act to amend the tax law, in relation to the payment and collection of the state franchise tax on corporations.

Date of introduction February 7; referred to Committee on Taxation and Retrenchment; died in Senate.

BOYLAN. Senate bill, introductory No. 432; printed No. 451, entitled: An act to amend the tax law, in relation to the franchise tax on corporations.

Date of introduction February 7; referred to Committee on Taxation and Retrenchment; died in Senate.

BOYLAN. Senate bill, introductory No. 433; printed No. 452, entitled: An act to amend the tax law, in relation to organization tax on corporations.

Date of introduction February 7; referred to Committee on Taxation and Retrenchment; died in Senate.

BOYLAN. Senate bill, introductory No. 434; printed No. 453, entitled: An act to amend the tax law, in relation to taxable transfers.

Date of introduction February 7; referred to Committee on Taxation and Retrenchment; died in Senate.

BOYLAN. Senate bill, introductory No. 435; printed No. 454, entitled: An act to amend the tax law, in relation to taxable transfers.

Date of introduction February 7; referred to Committee on Taxation and Retrenchment; died in Senate.

BOYLAN. Senate bill, introductory No. 467; printed No. 487, entitled: Concurrent resolution of the Senate and Assembly

proposing an amendment to article three of the constitution, in relation to exemptions from taxation.

Date of introduction February 8; referred to Committee on the Judiciary; died in Senate.

BOYLAN. Senate bill, introductory No. 468; printed No. 490, entitled: An act to amend the code of civil procedure, in relation to personal service of summons upon a domestic corporation.

Date of introduction February 9; referred to Committee on Codes; died in Senate.

BOYLAN. Senate bill, introductory No. 469; printed No. 491, entitled: An act to amend the code of civil procedure, in relation to personal service of summons upon a foreign corporation.

Date of introduction February 9; referred to Committee on Codes; died in Senate.

BOYLAN. Senate bill, introductory No. 470; printed No. 492, entitled: An act to amend the stock corporation law, in relation to liability of stockholders to employees.

Date of introduction February 9; referred to Committee on the Judiciary; died in Senate.

BOYLAN. Senate bill, introductory No. 471; printed No. 493, entitled: An act to amend the stock corporation law, in relation to posting the names of the officers and persons upon whom process may be served.

Date of introduction February 9; referred to Committee on the Judiciary; died in Senate.

BOYLAN. Senate bill, introductory No. 472; printed No. 494, entitled: An act to amend the stock corporation law, in relation to inspection of stock book and making extracts therefrom.

Date of introduction February 9; referred to Committee on the Judiciary; died in Senate.

BOYLAN. Senate bill, introductory No. 473; printed No. 495, entitled: An act to amend the New York city municipal

court code, in relation to judgment and execution in favor of wage earners.

Date of introduction February 9; referred to Committee on Codes; died in Senate.

BOYLAN. Senate bill, introductory No. 474; printed No. 496, entitled: An act to amend the workmen's compensation law, in relation to compensation to employees in hazardous employments.

Date of introduction February 9; referred to Committee on Labor and Industries; died in Senate.

BOYLAN. Senate bill, introductory No. 498; printed No. 1898, entitled: An act to amend the public health law, in relation to the sale of habit-forming drugs.

Date of introduction February 9; referred to Committee on Public Health; reported favorably and referred to the Committee of the Whole April 10; amended April 10, April 11; ordered to third reading April 14; amended April 15; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Public Health; returned from Assembly dead.

BOYLAN. Senate bill, introductory No. 571; printed No. 601, entitled: An act to authorize the board of assessors of the city of New York to estimate and allow the damages sustained by owners of real property fronting upon East One Hundred and Sixty-seventh street and upon Park avenue, in the borough of the Bronx, city of New York, by reason of the change of the street grade due to the construction of a bridge to carry East One Hundred and Sixty-seventh street over the tracks of the New York and Harlem railroad in the year nineteen hundred and ten.

Date of introduction February 17; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 12; ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city.

BOYLAN. Senate bill, introductory No. 627; printed No. 663, entitled: An act to amend chapter five hundred and thirty-one of the laws of eighteen hundred and eighty-four as amended by chapter three hundred and seventy-six of the laws of eighteen hundred and eighty-seven, in relation to official searches in the office of the register of the county of New York.

Date of introduction February 22; referred to Committee on Affairs of Cities; died in Senate.

BOYLAN. Senate bill, introductory No. 628; printed No. 1832, entitled: An act to amend chapter five hundred and thirty-one of the laws of eighteen hundred and eighty-four, entitled "An act in relation to the office of the register of the city and county of New York," in relation to the bond of the register of the county of New York and official searches in his office.

Date of introduction February 22; referred to Committee on Affairs of Cities; amended March 27; reported favorably and ordered to third reading April 12; amended April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city; Governor held not a city bill; chapter No. 600.

BOYLAN. Senate bill, introductory No. 644; printed No. 680, entitled: An act to amend the code of civil procedure, in relation to actions against a nonresident, upon a demand barred by the law of his residence.

Date of introduction February 23; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole April 5; ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Codes; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 536.

BOYLAN. Senate bill, introductory No. 645; printed No. 681, entitled: An act to amend the penal law, in relation to habit-forming drugs.

Date of introduction February 23; referred to Committee on Codes; died in Senate.

BOYLAN. Senate bill, introductory No. 662; printed No. 698, entitled: An act to amend the public health law, in relation to the protection of public water supplies and the protection of public health by railroad companies.

Date of introduction February 23; referred to Committee on Public Health; died in Senate.

BOYLAN. Senate bill, introductory No. 672; printed No. 715, entitled: An act to amend the Greater New York charter, in relation to the collection of the revenues arising from or incidental to the sale or use of water from the public water supply.

Date of introduction February 24; referred to Committee on Affairs of Cities; died in Senate.

BOYLAN. Senate bill, introductory No. 722; printed No. 1715, entitled: An act to amend the public health law, in relation to the sale of habit forming drugs.

Date of introduction February 28; referred to Committee on Public Health; amended and recommitted March 23, April 10; died in Senate.

BOYLAN. Senate bill, introductory No. 723; printed No. 776, entitled: An act to amend the public health law, in relation to the sale of habit forming drugs.

Date of introduction February 28; referred to Committee on Public Health; died in Senate.

BOYLAN. Senate bill, introductory No. 742; printed No. 800, entitled: An act to amend the Greater New York charter, by creating the position of city superintendent of schools emeritus.

Date of introduction February 29; referred to Committee on Affairs of Cities; died in Senate.

BOYLAN. Senate bill, introductory No. 1098; printed No. 1246, entitled: An act authorizing the police commissioner of the

city of New York to rehear the charges upon which James Quigley, formerly a patrolman in the police department of the said city, was dismissed from said department in the year nineteen hundred and two and to reinstate him in the position formerly held by him.

Date of introduction March 22; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 621.

BOYLAN. Senate bill, introductory No. 1111; printed No. 1259, entitled: An act making the operation of trains at grade on certain of the tracks of the New York Central Railroad Company in the city of New York, borough of Manhattan, a public nuisance, providing for discontinuing the use by said company of said tracks at grade, and for the regulation and improvement of the railroad terminals and approaches thereto, and of the motive power to be used thereon, and for such purposes to authorize the city of New York to grant real property, rights and privileges to said railroad company, and repealing chapter seven hundred and seventy-seven of the laws of nineteen hundred and eleven, affecting the subject-matter.

Date of introduction March 22; referred to Committee on Public Service; died in Senate.

BOYLAN. Senate bill, introductory No. 1318; printed No. 1590, entitled: An act to amend the Greater New York charter, in relation to the period of service of members of the police force of the board of water supply transferred or appointed to the police department of the city of New York.

Date of introduction April 5; referred to Committee on Affairs of Cities; died in Senate.

BOYLAN. Senate bill, introductory No. 1345; printed No. 1640, entitled: An act to define and regulate the practice of osteotherapy, which is eclectic osteopathy.

Date of introduction April 6; referred to Committee on Public Health; died in Senate.

BROWN. Senate bill, introductory No. 99; printed No. 99, entitled: An act authorizing the village of Alexandria Bay to establish a public fund and to raise money by taxation therefor.

Date of introduction January 10; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 2; ordered to third reading February 3; Assembly bill, same title, substituted February 8; passed February 9 (A. Pr. No. 2); chapter No. 6.

BROWN. Senate bill, introductory No. 132; printed No. 366, entitled: An act to amend the general corporation law, in relation to filing a certified copy of order of dissolution in the office of the secretary of state.

Date of introduction January 12; referred to Committee on the Judiciary; amended and recommitted February 1; died in Senate.

BROWN. Senate bill, introductory No. 151; printed No. 151, entitled: An act to legalize and confirm the acts and proceedings of the board of managers of the Oswego County Tuberculosis Hospital, relating to the appointment of Dr. Alva G. Dunbar, superintendent of said hospital.

Date of introduction January 18; referred to Committee on the Judiciary; died in Senate.

BROWN. Senate bill, introductory No. 152; printed No. 152, entitled: An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of George W. Armstrong and coheirs of John Wood, late a captain in the Revolutionary war, for military services rendered, for which he never received pay.

Date of introduction January 18; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Claims; returned from Assembly dead.

BROWN. Senate bill, introductory No. 206; printed No. 206, entitled: An act to amend the tax law, in relation to the exemption of public library property from taxation.

Date of introduction January 24; referred to Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 5; recommitted April 10; died in Senate

BROWN. Senate bill, introductory No. 260; printed No. 260, entitled: An act to amend chapter seven hundred and sixty of the laws of eighteen hundred and ninety-seven, entitled "An act to revise the charter of the city of Watertown," in relation to payment of city's share of expenses of improvements.

Date of introduction January 26; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Affairs of Cities; returned from Assembly dead.

BROWN. Senate bill, introductory No. 350; printed No. 353, entitled: An act to amend the tax law, in relation to notice to be given by town collector of the amount of a tax.

Date of introduction January 31; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Taxation and Retrenchment; returned from Assembly dead.

BROWN. Senate bill, introductory No. 373; printed No. 381, entitled: An act to amend the general corporation law, in relation to the entry of judgment of dissolution and the filing of certified copies thereof in public offices.

Date of introduction February 1; referred to Committee on the Judiciary; died in Senate.

BROWN. Senate bill, introductory No. 374; printed No. 382, entitled: An act to amend the membership corporations law, in

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of the code of civil procedure, in relation to the fees of public officers.

Date of introduction February 8; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Codes; returned from Assembly dead.

BROWN. Senate bill, introductory No. 529; printed No. 558, entitled: An act to empower the executive board of the New York State Convention of Universalists to elect the directors of "The Nathaniel Stacy Memorial Association, Incorporated."

Date of introduction February 14; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 15; Assembly bill, same title, substituted March 16; passed March 21 (A. Pr. No. 706); chapter No. 103.

BROWN. Senate bill, introductory No. 590; printed No. 1733; Assembly printed No. 2110, entitled: An act to provide for submitting to the voters of the city of New York the question: "Shall the expenses of county offices of a county included within the city, and the salaries and compensation of county officers and employees of any such county, other than those excepted herefrom by law, be fixed by the city authorities?" and declaring the effect of an affirmative determination of such question.

Date of introduction February 21; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended March 29, April 1, April 3; ordered to third reading April 6; amended April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 15; amended April 15; recommitted April 20; returned from Assembly dead.

BROWN. Senate bill, introductory No. 591; printed No. 1491; Assembly printed No. 2112, entitled: An act to amend chapter three hundred and thirty-six of the laws of nineteen hun-

dred and three, entitled "An act to provide for the erection of the court house in the county of New York and authorizing the acquisition of a site therefor," in relation to expenditures by the court house board.

Date of introduction February 21; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended March 29; ordered to third reading April 6; passed April 12. Assembly record.—Received from the Senate April 13; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 17; amended April 17; ordered to third reading April 20; passed April 20. In Senate.—Assembly amendments concurred in April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 511.

BROWN. Senate bill, introductory No. 592; printed No. 1525; Assembly printed No. 2089, entitled: An act to amend the highway law, in relation to connecting highways in villages and cities of the second and third classes.

Date of introduction February 21; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 23; ordered to third reading March 24; passed March 28 (Pr. No. 624); reconsidered and restored to third reading March 28; amended March 30; repassed April 5 (Pr. No. 1525). Assembly record.—Received from the Senate April 6; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading April 12; amended April 12; ordered to third reading April 19; passed April 19. In Senate.—Assembly amendments concurred in April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 570.

BROWN. Senate bill, introductory No. 593; printed No. 1488, entitled: An act to amend chapter five hundred and twenty-three of the laws of eighteen hundred and ninety, entitled "An act in relation to the office of sheriff of the city and county of New York," in relation to the salary of sheriff.

Date of introduction February 21; referred to Committee on Affairs of Cities; reported favorably and referred to the Commit-

tee of the Whole March 29; amended March 29; ordered to third reading April 6; passed April 12; reconsidered and tabled April 14; died in Senate.

BROWN. Senate bill, introductory No. 594; printed No. 1734, entitled: An act to provide for submitting to the voters of the city of New York the question: "Shall the salaries or compensation of all city or borough officers and employees, except the salaries of judicial or elective officers and of members of the supervising or teaching staff of the department of education, be fixed by the local authorities?" and declaring the effect of an affirmative determination of such question.

Date of introduction February 21; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended March 29, April 1; ordered to third reading April 6; amended April 10; passed April 14. Assembly record.—Received from the Senate April 14; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 18; ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city.

BROWN. Senate bill, introductory No. 595; printed No. 1493, entitled: An act to amend chapter seven hundred and twenty-four of the laws of nineteen hundred and five, entitled "An act to provide for an additional water supply of pure and wholesome water for the city of New York; and for the acquisition of lands or interest therein, and for the construction of the necessary reservoirs, dams, aqueducts, filters, and other appurtenances for that purpose; and for the appointment of a commission with the powers and duties necessary and proper to attain these objects," in relation to salaries and expenses of the commissioners.

Date of introduction February 21; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended March 29; ordered to third reading April 6; passed April 12. Assembly record.—Received

from the Senate April 13; referred to the Committee on Affairs of Cities; returned from Assembly dead.

BROWN. Senate bill, introductory No. 596; printed No. 628; Assembly printed No. 2121, entitled: An act to repeal section one hundred and seventy-eight of the highway law, relating to the contribution of the state toward the expense of maintaining county roads.

Date of introduction February 21; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 23; ordered to third reading March 24; passed March 28. Assembly record.—Received from the Senate March 29; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading April 17; amended April 17; ordered to third reading April 20; passed April 20; emergency message. In Senate.—Assembly amendments concurred in April 20; emergency message. Record after passage.—Transmitted to Governor April 20; chapter No. 459.

BROWN. Senate bill, introductory No. 597; printed No. 629, entitled: An act to provide for the confinement of persons committed on civil process in the county of New York.

Date of introduction February 21; referred to Committee on Affairs of Cities; died in Senate.

BROWN. Senate bill, introductory No. 598; printed No. 630, entitled: An act to amend the Greater New York charter, in relation to the powers of the board of aldermen and the board of estimate and apportionment; the issue of corporate stock, serial bonds and tax notes.

Date of introduction February 21; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 17; ordered to third reading April 18; passed April 18. Record after passage.—

Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 615.

BROWN. Senate bill, introductory No. 599; printed No. 631; Assembly printed No. 2111, entitled: An act to amend the Greater New York charter, in relation to the duties of the board of estimate and apportionment, the assessment of property for taxation and the levying and collection of taxes and water rates.

Date of introduction February 21; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading April 6; passed April 12. Assembly record.—Received from the Senate April 13; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 17; amended April 17; ordered to third reading April 20; passed April 20. In Senate.—Assembly amendments concurred in April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city.

BROWN. Senate bill, introductory No. 600; printed No. 1524, entitled: An act to amend the highway law, in relation to the disposition of registration fees, collected under the motor vehicle law.

Date of introduction February 21; referred to Committee on Taxation and Retrenchment; referred to Committee on Internal Affairs March 15; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 6; passed April 12. Assembly record.—Received from the Senate April 13; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 577.

BROWN. Senate bill, introductory No. 601; printed No. 1787, entitled: An act to amend the highway law, in relation to the construction of state and county highways in villages and cities of the second and third classes.

Date of introduction February 21; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; re-

ported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 6; amended April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading April 18; ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 571.

BROWN. Senate bill, introductory No. 602; printed No. 634, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section two of article twelve of the constitution, in relation to legislative bills affecting counties within a city.

Date of introduction February 21; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole April 5; ordered to third reading April 6; passed April 12. Assembly record.—Received from the Senate April 13; referred to the Committee on the Judiciary; returned from Assembly dead.

BROWN. Senate bill, introductory No. 603; printed No. 1167; Assembly printed No. 2098, entitled: An act to amend the public service commissions law, by making the regulative expenses of the commission of the first district a state charge, making all local expenses of such commission subject to the approval of the board of estimate and amending the same generally.

Date of introduction February 21; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; amended March 17; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 14; amended April 14; ordered to third reading April 19; passed April 19. In Senate.—Assembly amendments concurred in April 19. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 572.

BROWN. Senate bill, introductory No. 708; printed No. 761, entitled: An act to amend the insurance law requiring a deposit by fraternal benefit societies incorporated by or existing under the laws of a country outside of the United States.

Date of introduction February 28; referred to Committee on Insurance; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Insurance; returned from Assembly dead.

BROWN. Senate bill, introductory No. 709; printed No. 762, entitled: An act to amend the penal law, in relation to unlawful solemnizing of marriages.

Date of introduction February 28; referred to Committee on Codes; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Codes; returned from Assembly dead.

BROWN. Senate bill, introductory No. 732; printed No. 1098, entitled: An act to amend the state finance law, in relation to report of expenditure in excess of available appropriations.

Date of introduction February 28; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole March 15; amended March 15; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Ways and Means; returned from Assembly dead.

BROWN. Senate bill, introductory No. 820; printed No. 1673, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section one of article twelve and sections twenty-six and twenty-seven of article three of the constitution to enable the legislature to give greater control over local affairs to cities and counties.

Date of introduction March 6; referred to Committee on the Judiciary; amended March 17; reported favorably and referred

to the Committee of the Whole April 5; amended April 6; ordered to third reading April 13; passed April 17. Assembly record.— Received from the Senate April 17; referred to the Committee on the Judiciary; returned from Assembly dead.

BROWN. Senate bill, introductory No. 821; printed No. 1784, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section fifteen of article three of the constitution, in relation to appropriation bills and the establishment of a legislative budget system.

Date of introduction March 6; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 11; amended April 12; passed April 15. Assembly record.— Received from the Senate April 15; referred to the Committee on the Judiciary; returned from Assembly dead.

BROWN. Senate bill, introductory No. 856; printed No. 1334, entitled: An act to amend the highway law, in relation to expense of constructing county systems of roads.

Date of introduction March 8; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 23; amended March 23; ordered to third reading March 28; passed March 30. Assembly record.— Received from the Senate March 31; referred to the Committee on Internal Affairs; returned from Assembly dead.

BROWN. Senate bill, introductory No. 871; printed No. 956, entitled: An act to amend the town law, in relation to the compensation of election officers.

Date of introduction March 8; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.— Received from the Senate April 4; referred to the Committee on Internal Affairs; returned from Assembly dead.

BROWN. Senate bill, introductory No. 922; printed No. 1032, entitled: An act making an appropriation for the com-

pletion and equipment of the buildings and the grading and improvement of the grounds of the Oswego State Normal and Training School.

Date of introduction March 13; referred to Committee on Finance; died in Senate.

BROWN. Senate bill, introductory No. 1005; printed No. 1134, entitled: An act to amend chapter three hundred and ninety-four of the laws of eighteen hundred and ninety-five, entitled "An act to revise the charter of the city of Oswego," in relation to the number of policemen to constitute the police of the city of Oswego.

Date of introduction March 16; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 6; recommitted April 14; died in Senate.

BROWN. Senate bill, introductory No. 1006; printed No. 1135, entitled: An act to amend the poor law, in relation to the powers of county superintendents of the poor.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 275.

BROWN. Senate bill, introductory No. 1007; printed No. 1136, entitled: An act to amend the county law, in relation to salary and compensation of county officers.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Internal Affairs; returned from Assembly dead.

BROWN. Senate bill, introductory No. 1008; printed No. 1137, entitled: An act to amend the poor law, in relation to the removal of poor persons to the county, town or city liable for their support.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; not signed by Governor.

BROWN. Senate bill, introductory No. 1009; printed No. 1138, entitled: An act to authorize the city of Fulton to borrow money for the purpose of paying various indebtedness and expense incurred in excess of appropriations and meeting the deficit of said city.

Date of introduction March 16; referred to Committee on Affairs of Cities; reported favorably and order to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Affairs of Cities; returned from Assembly dead.

BROWN. Senate bill, introductory No. 1030; printed No. 1172, entitled: An act to amend the Greater New York charter, in relation to the sheriff's jail in the county of New York, and to repeal certain provisions of law in reference thereto.

Date of introduction March 20; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading April 6; passed April 12. Assembly record.—Received from the Senate April 13; referred to the Committee on Affairs of Cities; returned from Assembly dead.

BROWN. Senate bill, introductory No. 1031; printed No. 1173, entitled: An act to amend the agricultural law, in relation

to establishing a bureau to promote the settlement of immigrant farm laborers.

Date of introduction March 20; ordered to third reading and referred to Committee on Agriculture; reported favorably and restored to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Agriculture; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 586.

BROWN. Senate bill, introductory No. 1047; printed No. 1188, entitled: An act to amend chapter four hundred and twenty of the laws of nineteen hundred and fifteen, entitled "An act to incorporate the Woman's Board of Home Missions of the Presbyterian Church in the United States of America," in relation to the control of such woman's board by the General Assembly of the Presbyterian Church in the United States of America.

Date of introduction March 20; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 276.

BROWN. Senate bill, introductory No. 1048; printed No. 1189, entitled: An act to amend the stock corporation law, in relation to the reorganization of corporations to permit the issuance of shares without nominal or par value.

Date of introduction March 20; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11.—Referred to the Committee on the Judiciary; committee discharged and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; not signed by Governor.

BROWN. Senate bill, introductory No. 1107; printed No. 1255, entitled: An act to amend the highway law, in relation to the publication of brief summaries of local ordinances relating to speed of motor vehicles.

Date of introduction March 22; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from Senate April 6; referred to the Committee on Internal Affairs; returned from Assembly dead.

BROWN. Senate bill, introductory No. 1108; printed No. 1256, entitled: An act to authorize the city chamberlain of the city of Oswego to pay Arthur Owens.

Date of introduction March 22; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 11; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of Oswego April 18; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 481.

BROWN. Senate bill, introductory No. 1109; printed No. 1257, entitled: An act to amend the charter of the city of Fulton, in relation to a police pension fund.

Date of introduction March 22; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of Fulton April 18; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 455.

BROWN. Senate bill, introductory No. 1110; printed No. 1258, entitled: An act to amend the charter of the city of Fulton, in relation to a fireman's pension fund.

Date of introduction March 22; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of Fulton April 18; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 456.

BROWN. Senate bill, introductory No. 1143; printed No. 1695, entitled: An act to amend the Greater New York charter, in relation to public health and public charities.

Date of introduction March 23; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended April 7; died in Senate.

BROWN. Senate bill, introductory No. 1144; printed No. 1579, entitled: An act to amend the Greater New York charter, in relation to the department of bridges of the city of New York, and the devolution of certain powers and duties of other departments and offices.

Date of introduction March 23; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended April 3; ordered to third reading April 6; lost and tabled April 14; reconsidered April 17; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 528.

BROWN. Senate bill, introductory No. 1145; printed No. 1302, entitled: An act to amend subdivision three of section two hundred and eleven of the conservation law, in relation to the manner of taking wild fowl.

Date of introduction March 23; referred to Committee on Conservation; died in Senate.

BROWN. Senate bill, introductory No. 1196; printed No. 1392, entitled: An act to amend the state printing law and the judiciary law, in relation to the publication of the session laws and court reports.

Date of introduction March 27; referred to Committee on the Judiciary; died in Senate.

BROWN. Senate bill, introductory No. 1197, printed No. 1671; Assembly printed No. 2114, entitled: An act creating a commission to investigate certain matters concerning the Mohansic State Hospital and the New York State Training School for Boys, suspending the work of construction of such institutions, authorizing such commission to select and acquire a site for a new state hospital and for the New York State Training School for Boys, providing for the construction of such hospital, and making appropriations for the several purposes of the act.

Date of introduction March 27; referred to Committee on Finance; amended March 30, April 6; reported favorably and referred to the Committee of the Whole April 6; ordered to third reading April 13; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Ways and Means; amended April 17; reported favorably and ordered to third reading April 20; passed April 20. In Senate.—Assembly amendments concurred in April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

BROWN. Senate bill, introductory No. 1198; printed No. 1573, entitled: An act to provide for submitting to the voters of the city of New York the question: "Shall the salary or compensation of all members of the supervising or teaching staff of the department of education be fixed by the local authorities?" and declaring the effect of an affirmative determination of such question.

Date of introduction March 27; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; amended April 3; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Affairs

of Cities; reported favorably and ordered to second reading April 18; recommitted April 20; returned from Assembly dead.

BROWN. Senate bill, introductory No. 1199; printed No. 1395, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section one of article fourteen of the constitution, in relation to the submission of constitutional amendments to the people.

Date of introduction March 27; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole April 5; section one stricken out April 13; died in Senate.

BROWN. Senate bill, introductory No. 1200; printed No. 1396, entitled: An act to amend the tax law, in relation to exemption of libraries.

Date of introduction March 27; ordered to third reading and referred to Committee on Taxation and Retrenchment; reported favorably and restored to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 411.

BROWN. Senate bill, introductory No. 1304; printed No. 1559, entitled: An act to amend the railroad law, in relation to rate of fare for transportation of the national guard.

Date of introduction April 3; referred to Committee on Public Service; died in Senate.

BROWN. Senate bill, introductory No. 1305; printed No. 1561, entitled: An act to amend chapter seven hundred and twenty-five of the laws of nineteen hundred and fifteen, entitled "An act making appropriations for the support of government," in relation to salaries and compensation of teachers in the state normal college and state normal schools.

Date of introduction April 3; ordered to third reading April 3; passed April 10. Assembly record.—Received from the Senate

April 10; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 534.

BROWN. Senate bill, introductory No. 1311; printed No. 1567, entitled: An act to create a commission on rural credits and co-operation.

Date of introduction April 3; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 13; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; returned from Assembly dead.

BROWN. Senate bill, introductory No. 1410; printed No. 1797, entitled: An act to accept a deed of gift from Frederick A. Emerick to the people of the state of New York of lands in the town of Granby, in the county of Oswego, state of New York, to be dedicated to the purposes of a public park.

Date of introduction April 12; ordered to third reading April 12; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 308.

BURLINGAME. Senate bill, introductory No. 54; printed No. 54, entitled: An act to amend the code of criminal procedure, in relation to practice on appeals.

Date of introduction January 5; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; passed March 24. Assembly record.—Received from the Senate March 27; referred to the Committee on Codes; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; chapter No. 230.

BURLINGAME. Senate bill, introductory No. 55; printed No. 55, entitled: An act to amend the penal law, in relation to criminally receiving property.

Date of introduction January 5; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Codes; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 366.

BURLINGAME. Senate bill, introductory No. 61; printed No. 61, entitled: An act to amend chapter seven hundred and seventy-two of the laws of eighteen hundred and ninety-six, entitled "An act in relation to the office of the district attorney of the county of Kings providing for the election of district attorney, and the appointment of clerks, stenographers and county detectives for said office," in relation to stenographers in such office.

Date of introduction January 5; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; chapter No. 187.

BURLINGAME. Senate bill, introductory No. 936; printed No. 1048, entitled: An act to amend the Greater New York charter, in relation to the consent of the board of estimate and apportionment to the construction or operation of street surface railroads, or extensions or branches thereof, within the city of New York, and to the conditions under which consent shall be given.

Date of introduction March 14; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 19; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Affairs of Cities; returned from Assembly dead.

BURLINGAME. Senate bill, introductory No. 937; printed No. 1049, entitled: An act to amend the railroad law, in relation

to the consent of the local authorities to the construction or operation of street surface railroads, or extensions or branches thereof, within a city and to the conditions under which consent shall be given.

Date of introduction March 14; referred to Committee on Public Service; died in Senate.

BURLINGAME. Senate bill, introductory No. 957; printed No. 1076, entitled: An act to amend the New York city municipal court code, in relation to municipal court district boundaries in the borough of Brooklyn.

Date of introduction March 15; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 31; recommitted April 17; died in Senate.

BURLINGAME. Senate bill, introductory No. 1002; printed No. 1131, entitled: An act to amend the election law, in relation to the creation, division and alteration of election districts.

Date of introduction March 16; referred to Committee on the Judiciary; died in Senate.

BURLINGAME. Senate bill, introductory No. 1118; printed No. 1275, entitled: An act to amend chapter one hundred and twenty-five of the laws of nineteen hundred and six, entitled "An act in relation to illuminating gas in the city of New York and regulating the quality and pressure thereof and the price to consumers other than said city and providing a penalty for violation," in relation to the price to be charged for illuminating gas in certain wards of the borough of Brooklyn.

Date of introduction March 22; referred to Committee on Public Service; died in Senate.

BURLINGAME. Senate bill, introductory No. 1126; printed No. 1284, entitled: An act to amend the tax law, in relation to the tax imposed upon transfers of stock.

Date of introduction March 23; referred to Committee on Taxation and Retrenchment; died in Senate.

BURLINGAME. Senate bill, introductory No. 1332; printed No. 1864, entitled: An act to amend the public service commissions law, in relation to the prayer for judgment in an action to recover penalties or forfeitures.

Date of introduction April 5; referred to Committee on Public Service; amended April 13; reported favorably and ordered to third reading April 17; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 546.

BURLINGAME. Senate bill, introductory No. 1333; printed No. 1607, entitled: An act to amend the public service commissions law so as to provide that a writ of certiorari shall not be issued to review certain orders of the commission.

Date of introduction April 5; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole April 19; died in Senate.

BURLINGAME. Senate bill, introductory No. 1334; printed No. 1608, entitled: An act to amend section nine of chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants," with reference to investigations by the public service commission for the first district under said act.

Date of introduction April 5; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole April 19; died in Senate.

BURLINGAME. Senate bill, introductory No. 1467; printed No. 1917, entitled: An act to amend the penal law, in relation to overhearing telephone conversations.

Date of introduction April 17; ordered to third reading April 17; lost April 20; died in Senate.

BURLINGAME. Senate bill, introductory No. 1468; printed No. 1918, entitled: An act to amend the Greater New York

charter, in relation to the powers of the board of estimate and apportionment to reconsider its action in the apportionment of the cost of certain public improvements.

Date of introduction April 17; ordered to third reading April 17; passed April 20. Assembly record.—Received from the Senate April 20; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 512.

BURLINGAME. Senate bill, introductory No. 1471; printed No. 1921, entitled: An act to amend chapter three hundred and thirty-six of the laws of nineteen hundred and three, entitled "An act to provide for the erection of a courthouse in the county of New York and authorizing the acquisition of a site therefor," in relation to the exchange of real estate.

Date of introduction April 18; referred to Committee on Affairs of Cities; died in Senate.

CARROLL. Senate bill, introductory No. 126; printed No. 126, entitled: An act to amend the Greater New York charter, in relation to authorizing the city to provide relief for the family of a citizen killed while aiding a policeman in the performance of his duty.

Date of introduction January 12; referred to Committee on Affairs of Cities; died in Senate.

CARROLL. Senate bill, introductory No. 127; printed No. 127, entitled: An act to amend the education law, in relation to regents' examinations.

Date of introduction January 12; referred to Committee on Public Education; died in Senate.

CARROLL. Senate bill, introductory No. 128; printed No. 128, entitled: An act to amend the insurance law, in relation to the time within which fire losses must be paid.

Date of introduction January 12; referred to Committee on Insurance; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Insurance; returned from Assembly dead.

CARROLL. Senate bill, introductory No. 129; printed No. 129, entitled: An act to amend the Greater New York charter, in relation to firemen and employees in the street cleaning department of the city of New York.

Date of introduction January 12; referred to Committee on Affairs of Cities; died in Senate.

CARROLL. Senate bill, introductory No. 194; printed No. 194, entitled: An act to amend the prison law, in relation to parole of certain prisoners.

Date of introduction January 20; referred to Committee on the Judiciary; died in Senate.

CARROLL. Senate bill, introductory No. 290; printed No. 291, entitled: An act to amend chapter seven hundred and seventy-nine of the laws of nineteen hundred and eleven, entitled "An act establishing a state athletic commission and regulating boxing and sparring in the state of New York," in relation to imposing a tax on organized baseball games, based on the gross receipts.

Date of introduction January 27; referred to Committee on the Judiciary; died in Senate.

CARROLL. Senate bill, introductory No. 291; printed No. 292, entitled: An act to amend the Greater New York charter, in relation to the protection of the public health by the suppression of slaughter houses and fat rendering establishments.

Date of introduction January 27; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 30; recommitted April 5; died in Senate.

CARROLL. Senate bill, introductory No. 292; printed No. 293, entitled: An act to amend the Greater New York charter, in relation to the slaughtering of poultry and selling of live poultry.

Date of introduction January 27; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 19; recommitted April 19; returned from Assembly dead.

CARROLL. Senate bill, introductory No. 397; printed No. 413, entitled: An act to amend the general business law, in relation to trademarks.

Date of introduction February 3; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on General Laws; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 389.

CARROLL. Senate bill, introductory No. 398; printed No. 414, entitled: An act to amend the code of civil procedure, in relation to the expense of examination of accounts and inventories filed by committees of incompetent persons.

Date of introduction February 3; referred to Committee on Codes; died in Senate.

CARROLL. Senate bill, introductory No. 848; printed No. 933, entitled: An act to amend the public buildings law, in relation to the housing of state officers in the city of New York.

Date of introduction March 8; referred to Committee on Affairs of Cities; died in Senate.

CARROLL. Senate bill, introductory No. 897; printed No. 1004, entitled: An act to amend the Greater New York charter, in relation to the New York city penitentiary, workhouse and reformatory for misdemeanants.

Date of introduction March 10; referred to Committee on Affairs of Cities; died in Senate.

CARSWELL. Senate bill, introductory No. 241; printed No. 241, entitled: An act in relation to the incorporation called the New York Christian Missionary Society in the state of New York, and the property of extinct Church of Christ (Disciples) or Church of Christ (Disciples) religious societies.

Date of introduction January 25; referred to Committee on the Judiciary; died in Senate.

CARSWELL. Senate bill, introductory No. 288; printed No. 288, entitled: An act to amend the lien law, generally.

Date of introduction January 26; referred to Committee on the Judiciary; died in Senate.

CARSWELL. Senate bill, introductory No. 673; printed No. 716, entitled: An act to amend the inferior criminal courts act of the city of New York, in relation to the commitment of persons convicted of vagrancy.

Date of introduction February 24; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 23; Assembly bill, same title, substituted March 27; passed March 29 (A. Pr. No. 1559); not accepted by the city.

CARSWELL. Senate bill, introductory No. 970; printed No. 1089, entitled: An act to amend the highway law, in relation to permits for crossings and pipes in town highways.

Date of introduction March 15; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 28. Assembly record.—Received from the Senate March 29; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 462.

CARSWELL. Senate bill, introductory No. 1167; printed No. 1324, entitled: An act to amend the public officers law, in relation to the appointment of public officers by the governor.

Date of introduction March 23; referred to Committee on the Judiciary; died in Senate.

CARSWELL. Senate bill, introductory No. 1168; printed No. 1325, entitled: An act to amend the public service commissions law, in relation to the appointment of members of the commission.

Date of introduction March 23; referred to Committee on Public Service; died in Senate.

CARSWELL. Senate bill, introductory No. 1219; printed No. 1414, entitled: An act to amend chapter two hundred and seventy-nine of the laws of nineteen hundred and fifteen, entitled "An act in relation to the municipal court of the city of New York, and repealing certain statutes affecting such court, its justices and officers," in relation to the payment to judgment creditors or their attorneys of moneys deposited in court to satisfy judgments.

Date of introduction March 27; referred to Committee on Affairs of Cities; died in Senate.

CARSWELL. Senate bill, introductory No. 1220; printed No. 1415, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section seven of article one of the constitution, generally.

Date of introduction March 27; referred to Committee on the Judiciary; died in Senate.

CARSWELL. Senate bill, introductory No. 1286; printed No. 1531, entitled: An act to amend the prison law, in relation to the board of classification and the method of fixing prices for labor performed and articles manufactured.

Date of introduction March 30; referred to Committee on Penal Institutions; died in Senate.

CARSWELL. Senate bill, introductory No. 1287; printed No. 1536, entitled: An act for the apportionment of members of assembly of the state.

Date of introduction March 31; referred to Special Committee on Apportionment; died in Senate.

CARSWELL. Senate bill, introductory No. 1353; printed No. 1662, entitled: An act to amend the penal law, in relation to the use of the coat of arms or seal of the state, or of the coat of arms, seal or flag of any municipality therein, for commercial or advertising purposes.

Date of introduction April 6; referred to Committee on Codes; died in Senate.

CRISTMAN. Senate bill, introductory No. 10; printed No. 362, entitled: An act making an appropriation for the construction of a retaining wall on the canal feeder known as Steele's creek, at Ilion.

Date of introduction January 5; referred to Committee on Finance; amended January 31; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; returned from Assembly dead.

CRISTMAN. Senate bill, introductory No. 88; printed No. 88, entitled: An act to amend the highway law, in relation to motor cycles.

Date of introduction January 10; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

CRISTMAN. Senate bill, introductory No. 171; printed No. 290, entitled: An act to amend chapter three hundred and fifteen of the laws of eighteen hundred and ninety-five, entitled "An act to amend and consolidate the several acts relating to the village of Ilion," in relation to boundaries and to assessors.

Date of introduction January 19; referred to Committee on Affairs of Villages; amended January 26; reported favorably and

referred to the Committee of the Whole February 2; ordered to third reading February 3; passed February 9. Assembly record.—Received from the Senate February 10; referred to the Committee on Affairs of Villages; reported favorably and ordered to second reading February 24; ordered to third reading February 25; passed February 29. Record after passage.—Transmitted to Governor March 1; chapter No. 24.

CRISTMAN. Senate bill, introductory No. 184; printed No. 1038, entitled: An act to amend the highway law, in relation to motor cycles.

Date of introduction January 19; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole January 27; amended February 2; ordered to third reading February 8; amended February 21; passed February 29 (Pr. No. 660). Assembly record.—Received from the Senate March 1; ordered to third reading March 1; passed March 1. Record after passage.—Transmitted to Governor March 1; recalled March 7; reconsidered, amended and restored to third reading March 14; repassed March 20. In Assembly.—Repassed March 20; retransmitted to Governor March 21; chapter No. 72.

CRISTMAN. Senate bill, introductory No. 185; printed No. 185, entitled: An act to establish a system of normal and training schools for the education and training of teachers to be employed in the rural schools of the state, and making appropriations therefor.

Date of introduction January 19; referred to Committee on Finance; died in Senate.

CRISTMAN. Senate bill, introductory No. 273; printed No. 273, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section seven of article seven of the constitution, in relation to the forest preserve.

Date of introduction January 26; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 2; ordered to third reading February 3; passed February 8. Assembly record.—Received from the Senate

February 10; referred to the Committee on the Judiciary; reported favorably and ordered to second reading March 15; ordered to third reading March 16; passed March 21. Record after passage.— Transmitted to Secretary of State March 22.

CRISTMAN. Senate bill, introductory No. 280; printed No. 280, entitled: An act to extend the time of Little Falls and Johnstown Railroad Company to begin and finish the construction of its road and put it in operation, and extending the corporate existence and powers of the company.

Date of introduction January 26; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 15. Assembly record.— Received from the Senate March 20; referred to the Committee on the Judiciary; reported favorably and ordered to second reading March 22; ordered to third reading March 23; passed March 27. Record after passage.— Transmitted to Governor March 28; chapter No. 150.

CRISTMAN. Senate bill, introductory No. 572; printed No. 602, entitled: An act for the relief of the town of Webb, in the county of Herkimer.

Date of introduction February 17; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; ordered to third reading March 6; passed March 8. Assembly record.— Received from the Senate March 10; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading March 21; ordered to third reading March 23; passed March 27. Record after passage.— Transmitted to Governor March 28; chapter No. 136.

CRISTMAN. Senate bill, introductory No. 824; printed No. 903, entitled: An act to amend the code of civil procedure, in relation to references to inquire as to creditors, in actions for partition.

Date of introduction March 6; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole

March 16; ordered to third reading March 21; passed March 23. Assembly record.— Received from the Senate March 24; referred to the Committee on Codes; returned from Assembly dead.

CRISTMAN. Senate bill, introductory No. 825; printed No. 1580, entitled: An act to amend chapter five hundred and ninety-three of the laws of nineteen hundred and five, entitled "An act to revise the charter of the city of Johnstown," generally.

Date of introduction March 6; referred to Committee on Affairs of Cities; amended April 3; reported favorably and ordered to third reading April 10; Assembly bill, same title, substituted and passed April 11 (A. Pr. No. 1942); chapter No. 326.

CRISTMAN. Senate bill, introductory No. 826; printed No. 905, entitled: An act to amend the county law, in relation to compensation of supervisors in the county of Herkimer.

Date of introduction March 6; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; passed March 23. Assembly record.— Received from the Senate March 24; referred to the Committee on Internal Affairs. In Senate.— Recalled April 8; died in Senate.

CRISTMAN. Senate bill, introductory No. 827; printed No. 906, entitled: An act to amend the code of civil procedure, in relation to notice of sale of real property in villages of the first class.

Date of introduction March 6; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; passed March 23. Assembly record.— Received from the Senate March 24; referred to the Committee on Codes; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.— Transmitted to Governor April 14; not signed by Governor.

CRISTMAN. Senate bill, introductory No. 828; printed No. 907, entitled: An act to provide for the surfacing by the state

commission of highways of the bridge over West Canada creek at Herkimer, located at the intersection of such creek with state route number six, and making an appropriation therefor.

Date of introduction March 6; referred to Committee on Finance; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

CRISTMAN. Senate bill, introductory No. 963; printed No. 1082, entitled: An act to provide for the construction of a bridge over Twitchell creek in the county of Herkimer, and making an appropriation therefor.

Date of introduction March 15; referred to Committee on Finance; died in Senate.

CRISTMAN. Senate bill, introductory No. 964; printed No. 1375; Assembly printed No. 2077, entitled: An act to amend the education law, in relation to the regulation of moving picture exhibitions by a board of censors under the supervision and control of the regents of the state of New York.

Date of introduction March 15; referred to Committee on Public Education; amended March 27; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Public Education; committee discharged and substituted for Assembly bill, same title, on second reading, April 12; amended April 12; ordered to third reading April 18; passed April 18. In Senate.—Assembly amendments concurred in April 19. Record after passage.—Transmitted to Governor April 20; vetoed.

CRISTMAN. Senate bill, introductory No. 965; printed No. 1084, entitled: An act to confer jurisdiction on the court of claims to hear, audit and determine the alleged claims of the Cooper-Snell Company against the state for damages alleged to

have been sustained by such company, and to render judgment therefor.

Date of introduction March 15; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Claims; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; vetoed.

CRISTMAN. Senate bill, introductory No. 969; printed No. 1088, entitled: An act to provide for the construction of a bridge over the Black River canal, at Main street, in the village of Port Leyden, in the county of Lewis, and making an appropriation therefor.

Date of introduction March 15; referred to Committee on Finance; died in Senate.

CRISTMAN. Senate bill, introductory No. 971; printed No. 1101, entitled: An act to amend the town law, in relation to town charges.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 28. Assembly record.—Received from the Senate March 29; referred to the Committee on Internal Affairs; returned from Assembly dead.

CRISTMAN. Senate bill, introductory No. 972; printed No. 1102, entitled: An act to amend the town law, in relation to providing for the appointment of town physicians in certain towns.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 28. Assembly record.—Received from the Senate March 29; referred to the Committee on Internal Affairs; returned from Assembly dead.

CRISTMAN. Senate bill, introductory No. 973; printed No. 1103, entitled: An act to amend the town law, in relation to compensation of inspectors of election and the audit and payment of town charges.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

CRISTMAN. Senate bill, introductory No. 974; printed No. 1104, entitled: An act to regulate the sessions of the board of supervisors in Hamilton county, and to authorize said board to raise annually in advance such sums as may be sufficient to pay all accounts and charges audited and allowed by said board.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 28. Assembly record.—Received from the Senate March 29; referred to the Committee on Internal Affairs; returned from Assembly dead.

CRISTMAN. Senate bill, introductory No. 1012; printed No. 1600, entitled: An act to revise the charter of the city of Little Falls.

Date of introduction March 17; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 5; amended April 5; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of Little Falls April 18; transmitted to Governor April 20; not returned by Mayor within time limit.

CRISTMAN. Senate bill, introductory No. 1114; printed No. 1262, entitled: An act to amend the highway law, in relation to expenditures for bridges and other highway purposes.

Date of introduction March 22; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole

March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on third reading, April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 463.

CRISTMAN. Senate bill, introductory No. 1119; printed No. 1551; Assembly printed No. 2062, entitled: An act to amend the county law, in relation to compensation of supervisors.

Date of introduction March 22; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; amended March 31; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading April 11; amended April 11; ordered to third reading April 17; passed April 17. In Senate.—Assembly amendments concurred in April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 426.

CRISTMAN. Senate bill, introductory No. 1172; printed No. 1345, entitled: An act to legalize, ratify and confirm the action of the town board of the town of Long Lake, Hamilton county, in auditing the accounts of Ben Lahey, and providing for the payment of said accounts.

Date of introduction March 24; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; Ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on the Judiciary; returned from Assembly dead.

CRISTMAN. Senate bill, introductory No. 1212; printed No. 1407, entitled: An act to legalize and confirm the official acts of notaries public and commissioners of deeds.

Date of introduction March 27; referred to Committee on the Judiciary; reported favorably and ordered to third reading April

8; Assembly bill, same title, substituted and passed April 11 (A. Pr. No. 1853); chapter No. 280.

CRISTMAN. Senate bill, introductory No. 1213; printed No. 1408, entitled: An act to amend the village law, in relation to the office of collector in villages of the third class.

Date of introduction March 27; referred to Committee on Affairs of Villages; reported favorably and ordered to a third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Affairs of Villages; returned from Assembly dead.

CRISTMAN. Senate bill, introductory No. 1299; printed No. 1548, entitled: An act in relation to the levying of unpaid taxes and assessments in the village of Mohawk, Herkimer county.

Date of introduction March 31; referred to Committee on Affairs of Villages; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Affairs of Villages; reported favorably and ordered to a third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 306.

CRISTMAN. Senate bill, introductory No. 1348; printed No. 1643, entitled: An act to repeal article seven of the county law and to amend the town law, in relation to protecting certain domestic animals and encouraging the sheep industry.

Date of introduction April 6; ordered to third reading and referred to Committee on Agriculture; reported favorably and restored to third reading April 11; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Internal Affairs; returned from Assembly dead.

CRISTMAN. Senate bill, introductory No. 1455; printed No. 1894, entitled: An act making appropriations for salaries and expenses of the board of censors for moving picture exhibits.

Date of introduction April 14; ordered to third reading and referred to Committee on Finance; reported favorably and re-

stored to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

CRISTMAN. Senate bill, introductory No. 1470; printed No. 1920, entitled: An act to amend the charter of the city of Little Falls, in relation to the saving clause.

Date of introduction April 17; ordered to third reading April 17; passed April 20. Assembly record.—Received from the Senate April 20; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of Little Falls April 20; transmitted to Governor April 20; not returned by Mayor within time limit.

CROMWELL. Senate bill, introductory No. 293; printed No. 294, entitled: An act to amend an act, entitled "An act in relation to the benevolent fund of the late volunteer fire department in the city of New York."

Date of introduction January 27; referred to Committee on Affairs of Cities; died in Senate.

CROMWELL. Senate bill, introductory No. 294; printed No. 295, entitled: An act to amend the Greater New York charter, in relation to the collection and distribution of the tax on foreign insurance companies and their agents, and repealing certain sections relating thereto.

Date of introduction January 27; referred to Committee on Affairs of Cities; died in Senate.

CROMWELL. Senate bill, introductory No. 303; printed No. 304, entitled: An act to amend the penal law, in relation to defining certain games and amusements which shall not be forbidden by the provisions of such law relating to gambling.

Date of introduction January 27; referred to Committee on Codes; died in Senate.

CROMWELL. Senate bill, introductory No. 396; printed No. 405, entitled: An act to provide for the repayment of a transfer tax in excess of the amount required by law to the executors of the estate of Jacob E. Conklin of Rockland county, and making an appropriation therefor.

Date of introduction February 2; referred to Committee on Finance; died in Senate.

CROMWELL. Senate bill, introductory No. 522; printed No. 1871, entitled: An act to amend the highway law, in relation to motor vehicles.

Date of introduction February 10; referred to Committee on Affairs of Cities; amended March 21, April 7; reported favorably and ordered to third reading April 12; amended April 14; Assembly bill, same title, substituted, and passed April 19 (A. Pr. No. 2092); vetoed.

CROMWELL. Senate bill, introductory No. 523; printed No. 552, entitled: An act to incorporate the Artists' Aid Society.

Date of introduction February 11; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; vetoed and tabled April 18; died in Senate.

CROMWELL. Senate bill, introductory No. 674; printed No. 717, entitled: An act to amend chapter three hundred and ninety-two of the laws of eighteen hundred and ninety-six, entitled "An act to regulate the commitment and discharge of certain prisoners, tramps and vagrants in Richmond county, and to prescribe the effect thereof, to provide for the support of prisoners in the jail in the county of Richmond, and to fix the duties and compensation of the sheriff of said county and of certain employees in the jail of said county," in relation to certain salaries.

Date of introduction February 24; referred to Committee on Affairs of Cities; reported favorably and referred to the Com-

mittee of the Whole March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading March 16; ordered to third reading March 17; passed March 21. Record after passage.—Transmitted to Governor March 22; chapter No. 83.

CROMWELL. Senate bill, introductory No. 683; printed No. 725, entitled: An act to create a commission to propose to the legislature a plan for reducing the accumulation of law reports, for improving or superseding the existing system of reporting opinions of the courts, and thereby expediting judicial procedure, and making an appropriation therefor.

Date of introduction February 24; referred to Committee on Finance; died in Senate.

CROMWELL. Senate bill, introductory No. 710; printed No. 1169, entitled: An act to amend the banking law, in relation to the organization of trust companies and branches thereof.

Date of introduction February 28; referred to Committee on Banks; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; amended March 17; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Banks; returned from Assembly dead.

CROMWELL. Senate bill, introductory No. 788, printed No. 1372, entitled: An act to amend the code of civil procedure, in relation to persons bound by judgment in certain actions.

Date of introduction March 2; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 24; amended March 24; ordered to third reading March 28; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Codes; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 518.

CROMWELL. Senate bill, introductory No. 801; printed No. 878, entitled: An act to amend the Greater New York charter, in relation to inspection and vacation of tenement houses.

Date of introduction March 3; referred to Committee on Affairs of Cities; died in Senate.

OROMWELL. Senate bill, introductory No. 896; printed No. 1490, entitled: An act to amend the Greater New York charter, in relation to the modification or reduction of assessments by the board of estimate and apportionment.

Date of introduction March 9; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended March 29; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Affairs of Cities; returned from Assembly dead.

CROMWELL. Senate bill, introductory No. 975; printed No. 1105, entitled: An act to amend the Greater New York charter, in relation to permits for removal of pavements.

Date of introduction March 16; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 28. Assembly record.—Received from the Senate March 29; referred to Committee on Affairs of Cities; reported favorably and ordered to second reading April 11; ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Mayor of New York April 14; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 496.

OROMWELL. Senate bill, introductory No. 1013; printed No. 1145, entitled: An act to amend the penal law, relating to the employment of children in connection with the making of motion picture films.

Date of introduction March 17; referred to Committee on Codes; reported favorably and ordered to third reading April 5; passed April 11. Assembly record.—Received from the Senate

April 12; referred to the Committee on Codes; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 278.

CROMWELL. Senate bill, introductory No. 1124; printed No. 1281, entitled: An act to amend the Greater New York charter, in relation to the powers of the board of estimate and apportionment, with respect to buildings, sites, areas, trades and industries.

Date of introduction March 22; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Mayor of New York April 14; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 497.

CROMWELL. Senate bill, introductory No. 1125; printed No. 1839, entitled: An act to amend the Greater New York charter, in relation to water charges and water meters.

Date of introduction March 22; referred to Committee on Affairs of Cities; amended March 29; reported favorably and ordered to third reading April 5; amended April 12; Assembly bill, same title, substituted and passed April 19 (A. Pr. No. 2068); chapter No. 602.

CROMWELL. Senate bill, introductory No. 1327; printed No. 1601, entitled: An act to amend the Greater New York charter, in relation to the disposition of street sweepings, refuse, ashes and garbage.

Date of introduction April 5; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 12; ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 17; ordered to third reading

April 17; passed April 18. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city.

CROMWELL. Senate bill, introductory No. 1337; printed No. 1632, entitled: An act to amend the code of civil procedure, in relation to effect of judgment in action to compel determination of claim to real property.

Date of introduction April 6; referred to Committee on Codes; died in Senate.

CROMWELL. Senate bill, introductory No. 1354; printed No. 1663, entitled: An act to amend the Greater New York charter, in relation to the recording of maps showing the layout of streets upon private property.

Date of introduction April 6; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading April 12; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of New York April 18; transmitted to Governor April 20; not accepted by the city.

CROMWELL. Senate bill, introductory No. 1358; printed No. 1667, entitled: An act to amend section four hundred and sixty-nine of the Greater New York charter, relative to the powers and jurisdiction of the commissioner of water supply, gas and electricity.

Date of introduction April 6; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city.

CROMWELL. Senate bill introductory No. 1359; printed No. 1668, entitled: An act to amend the Greater New York

charter, so as to prohibit the inclusion in the cost of work to be assessed upon property, the expense of moving or altering water mains, pipes or appurtenances.

Date of introduction April 6; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of New York April 18; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 501.

CROMWELL. Senate bill, introductory No. 1360; printed No. 1669, entitled: An act to amend the general city law, in relation to permits for the erection of booths, stands, arches, overhead passageways, or flagstuffs for the stringing of flags or banners for other than advertising purposes.

Date of introduction April 6; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 350.

CULLEN. Senate bill, introductory No. 1307; printed No. 1689, entitled: An act to amend the tax law, in relation to the appointment of transfer tax assistants and clerks in the surrogate's court, Kings county.

Date of introduction April 3; referred to Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 7; amended April 7; passed April 14. Assembly record.—Received from the Senate April 17; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 582.

DUNNIGAN. Senate bill, introductory No. 62; printed No. 62, entitled: An act to amend the public service commissions law, in relation to commissioners.

Date of introduction January 5; referred to Committee on Public Service; died in Senate.

DUNNIGAN. Senate bill, introductory No. 218; printed No. 218, entitled: An act to amend the code of civil procedure, in relation to judicial notice of city ordinances.

Date of introduction January 24; referred to Committee on Codes; died in Senate.

DUNNIGAN. Senate bill, introductory No. 219; printed No. 219, entitled: An act to amend the workmen's compensation law, in relation to medical treatment of injured employees.

Date of introduction January 24; referred to Committee on the Judiciary; died in Senate.

DUNNIGAN. Senate bill, introductory No. 220; printed No. 220, entitled: An act to amend chapter two hundred and seventy-nine of the laws of nineteen hundred and fifteen, entitled "An act in relation to the municipal court of the city of New York, and repealing certain statutes affecting such court, its justices and officers," in relation to authorizing the election of an additional justice of the municipal court of the city of New York for the second district of the borough of the Bronx.

Date of introduction January 24; referred to Committee on Affairs of Cities; died in Senate.

DUNNIGAN. Senate bill, introductory No. 221; printed No. 221, entitled: An act to amend the real property law, in relation to the rights of creditors to income from trust property.

Date of introduction January 24; referred to Committee on the Judiciary; died in Senate.

DUNNIGAN. Senate bill, introductory No. 222; printed No. 222, entitled: An act to amend the personal property law, in relation to the right of creditors to income from trust funds.

Date of introduction January 24; referred to Committee on the Judiciary; died in Senate.

DUNNIGAN. Senate bill, introductory No. 223; printed No. 223, entitled: An act to amend the code of civil procedure, in relation to property exempt from seizure under supplementary proceedings.

Date of introduction January 24; referred to Committee on Codes; died in Senate.

DUNNIGAN. Senate bill, introductory No. 224; printed No. 224, entitled: An act to amend the code of civil procedure, in relation to exemptions and executions.

Date of introduction January 24; referred to Committee on Codes; referred to Committee on Judiciary March 21; died in Senate.

DUNNIGAN. Senate bill, introductory No. 281; printed No. 281, entitled: An act to amend the Greater New York charter, in relation to the disposition of the proceeds of the sale of buildings.

Date of introduction January 26; referred to Committee on Affairs of Cities; died in Senate.

DUNNIGAN. Senate bill, introductory No. 376; printed No. 384, entitled: An act to authorize the board of assessors of the city of New York to estimate and allow the damages sustained by owners of real property known on the tax map of the city of New York, borough of the Bronx and the state of New York, as lots numbers one, two, three, four and five, in block number twenty-two hundred and seventy-eight, by reason of the construction of the Willis avenue bridge over the Harlem river, in said city.

Date of introduction February 1; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; returned from Assembly dead.

DUNNIGAN. Senate bill, introductory No. 377; printed No. 385, entitled: An act to amend the railroad law, in relation to free and reduced rates of transportation in certain cases.

Date of introduction February 1; referred to Committee on Public Service; died in Senate.

DUNNIGAN. Senate bill, introductory No. 458; printed No. 478, entitled: An act to amend the act establishing a state athletic commission and regulating boxing and sparring in the state of New York.

Date of introduction February 8; referred to Committee on the Judiciary; died in Senate.

DUNNIGAN. Senate bill, introductory No. 495; printed No. 517, entitled: An act to amend the Greater New York charter, in relation to the powers of the boards of local improvements.

Date of introduction February 9; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to the Mayor of New York April 12; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 493.

DUNNIGAN. Senate bill, introductory No. 524; printed No. 553, entitled: An act to amend the Greater New York charter, in relation to appropriations for observance of Memorial day.

Date of introduction February 11; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 8; ordered to third reading March 9; passed March 13. Assembly record.—Received from the Senate March 14; ordered to third reading March 14; passed March 16. Record after passage.—Transmitted to Mayor of New York March 17; returned from Mayor accepted March 24; transmitted to Governor March 24; chapter No. 115.

DUNNIGAN. Senate bill, introductory No. 525; printed No. 554, entitled: An act to amend the Greater New York charter, in relation to the security to be required from certain officers.

Date of introduction February 11; referred to Committee on Affairs of Cities; died in Senate.

DUNNIGAN. Senate bill, introductory No. 668; printed No. 704, entitled: An act to amend chapter five hundred and ninety-four of the laws of nineteen hundred and seven, entitled "An act to provide for preserving the waters of the Bronx river from pollution; creating a reservation of the lands on either side of the river; authorizing the taking of lands for that purpose and providing for the payment thereof, and appointing a commission to carry out the purpose of the act."

Date of introduction February 23; referred to Committee on Affairs of Cities; died in Senate.

DUNNIGAN. Senate bill, introductory No. 670; printed No. 706; Assembly printed No. 1981, entitled: An act to amend the Greater New York charter, relative to ceding, granting and conveying to the United States lands and lands under water, acquired by or owned by the city of New York, necessary for the improvement of the navigation of waters within or separating portions of the city of New York and for the sale of lands under water and filled-in lands not required for such improvement.

Date of introduction February 23; ordered to third reading February 23; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading March 23; amended March 23; ordered to third reading March 28; amended April 4; passed April 6. In Senate.—Assembly amendments concurred in April 10. Record after passage.—Transmitted to Mayor of New York April 12; transmitted to Governor April 20; return from Mayor accepted; chapter No. 494.

DUNNIGAN. Senate bill, introductory No. 684; printed No. 726, entitled: An act to amend chapter one hundred and twenty-five of the laws of nineteen hundred and six, entitled "An act in relation to illuminating gas in the city of New York and regulating the quality and pressure thereof and the price to consumers other than said city and providing a penalty for violation."

Date of introduction February 24; referred to Committee on Affairs of Cities; referred to Committee on Public Service April 18; reported favorably and referred to the Committee of the Whole April 19; died in Senate.

DUNNIGAN. Senate bill, introductory No. 685; printed No. 727, entitled: An act to require all trains leaving the Grand Central terminal station, to stop at the One Hundred and Twenty-fifth street station, in the city of New York.

Date of introduction February 24; referred to Committee on Public Service; died in Senate.

DUNNIGAN. Senate bill, introductory No. 857; printed No. 1227, entitled: An act to provide for ascertaining and paying the amount of damages to lands and buildings suffered by reason of changes in grades of streets and avenues along, near, crossing or contiguous to the tracks or right of way of the New York, New Haven and Hartford Railroad Company and the New York and Portchester Railroad Company from and including Tremont avenue to and including Bear Swamp road in the eastern part of the borough of the Bronx, city of New York, made in consequence of any change in the grade of the tracks of said New York, New Haven and Hartford Railroad Company and the Harlem River and Portchester Railroad Company.

Date of introduction March 8; referred to Committee on Affairs of Cities; amended March 21; reported favorably and ordered to third reading April 12; Assembly bill, same title, substituted and passed April 13 (A. Pr. No. 1897); not accepted by the city.

DUNNIGAN. Senate bill, introductory No. 966; printed No. 1085, entitled: An act to amend the Greater New York charter, in relation to local assessments for sewer construction.

Date of introduction March 15; referred to Committee on Affairs of Cities; died in Senate.

DUNNIGAN. Senate bill, introductory No. 967; printed No. 1086, entitled: An act to annex to the city of New York territory lying within the city of Yonkers.

Date of introduction March 15; referred to Committee on Affairs of Cities; died in Senate.

DUNNIGAN. Senate bill, introductory No. 1029; printed No. 1161, entitled: An act to grant and release to the city of

New York certain lands under water of Eastchester creek or Hutchinson's river, Eastchester bay and creeks emptying into the same and providing for the improvement thereof.

Date of introduction March 17; referred to Committee on Finance; died in Senate.

DUNNIGAN. Senate bill, introductory No. 1283; printed No. 1507, entitled: An act to amend the code of civil procedure, in relation to advertising legal sales of real estate.

Date of introduction March 30; referred to Committee on Codes; died in Senate.

DUNNIGAN. Senate bill, introductory No. 1284; printed No. 1508, entitled: An act for the relief of James Delehanty, a former member of the national guard of this state.

Date of introduction March 30; referred to Committee on Military Affairs; died in Senate.

DUNNIGAN. Senate bill, introductory No. 1335; printed No. 1609, entitled: An act authorizing the police commissioner of the city of New York to rehear the charges upon which Hugh McIver, formerly a patrolman in the police department of said city, was dismissed from said department in the year nineteen hundred and three and to reinstate him in the position formerly held by him.

Date of introduction April 5; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading April 12; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of New York April 18; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 619.

EMERSON. Senate bill, introductory No. 45; printed No. 45, entitled: An act to amend the conservation law, in relation to open seasons for wild deer.

Date of introduction January 5; referred to Committee on Conservation; died in Senate.

EMERSON. Senate bill, introductory No. 47; printed No. 47, entitled: An act to amend the conservation law, in relation to open season for wild deer.

Date of introduction January 5; referred to Committee on Conservation; died in Senate.

EMERSON. Senate bill, introductory No. 113; printed No. 113, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section seven of article seven of the constitution, in relation to the construction of highways and fire trails in the forest preserve.

Date of introduction January 10; referred to Committee on the Judiciary; died in Senate.

EMERSON. Senate bill, introductory No. 114; printed No. 114, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article seven of the constitution by adding a new section thereto providing for the application of the unexpended balance of moneys authorized to be raised by highway bonds pursuant to the law approved by the people in the year nineteen hundred and twelve.

Date of introduction January 10; referred to Committee on the Judiciary; died in Senate.

EMERSON. Senate bill, introductory No. 168; printed No. 1914, entitled: An act to amend the conservation law, in relation to the open season for wild deer.

Date of introduction January 18; referred to Committee on Conservation; reported favorably and ordered to third reading April 12; amended April 12, April 17; Assembly bill, same title, substituted April 18; passed April 20 (A. Pr. No. 2067); vetoed.

EMERSON. Senate bill, introductory No. 357; printed No. 360, entitled: An act to amend the liquor tax law, in relation to seizure and forfeiture of liquors kept for unlawful traffic.

Date of introduction January 31; referred to Committee on Taxation and Retrenchment; died in Senate.

EMERSON. Senate bill, introductory No. 358; printed No. 361, entitled: An act to amend the liquor tax law, in relation to statement to be made upon application for liquor tax certificate.

Date of introduction January 31; referred to Committee on Taxation and Retrenchment; died in Senate.

EMERSON. Senate bill, introductory No. 378; printed No. 386, entitled: An act to amend the village law, in relation to acquisition of lands for parks, squares, athletic fields and playgrounds.

Date of introduction February 1; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Villages; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

EMERSON. Senate bill, introductory No. 450; printed No. 470, entitled: An act creating a commission to acquire at state expense and transfer to the United States government the title or use of additional lands for the United States training camp near the city of Plattsburg.

Date of introduction February 8; referred to Committee on Finance; died in Senate.

EMERSON. Senate bill, introductory No. 456; printed No. 476, entitled: An act to provide for the construction of a bridge on state route number twenty-five between the towns of Chester and Johnsburg in the county of Warren, and making an appropriation for the state's share of the expense.

Date of introduction February 8; referred to Committee on Finance; died in Senate.

EMERSON. Senate bill, introductory No. 576; printed No. 608, entitled: An act to amend chapter two hundred and sixty-nine of the laws of nineteen hundred and two, entitled "An act

to incorporate the city of Plattsburg," in relation to creating a city hall commission in such city and prescribing its powers and duties.

Date of introduction February 21; referred to Committee on Affairs of Cities; died in Senate.

EMERSON. Senate bill, introductory No. 607; printed No. 639, entitled: An act to amend chapter two hundred and sixty-nine of the laws of nineteen hundred and two, entitled "An act to incorporate the city of Plattsburg," in relation to creating a city hall commission in such city and prescribing its powers and duties.

Date of introduction February 21; referred to Committee on Affairs of Cities; died in Senate.

EMERSON. Senate bill, introductory No. 611; printed No. 1384, entitled: An act to amend the tax law, in relation to exemptions.

Date of introduction February 21; referred to Committee on Taxation and Retrenchment; amended and recommitted March 13, March 27; died in Senate.

EMERSON. Senate bill, introductory No. 612; printed No. 1773, entitled: An act to amend the tax law, in relation to the assessment of special franchises.

Date of introduction February 21; referred to Committee on Taxation and Retrenchment; amended March 13, March 27, April 8; reported favorably and ordered to third reading April 11; amended April 11; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 334.

EMERSON. Senate bill, introductory No. 613; printed No. 645, entitled: An act to amend the tax law, in relation to private bankers.

Date of introduction February 21; referred to Committee on Taxation and Retrenchment; died in Senate.

EMERSON. Senate bill, introductory No. 614; printed No. 646, entitled: An act to amend the tax law, in relation to fees of collector.

Date of introduction February 21; referred to Committee on Taxation and Retrenchment; died in Senate.

EMERSON. Senate bill, introductory No. 615; printed No. 647, entitled: An act to amend the tax law, in relation to collection of taxes assessed against nonresidents.

Date of introduction February 21; referred to Committee on Taxation and Retrenchment; died in Senate.

EMERSON. Senate bill, introductory No. 616; printed No. 648, entitled: An act to amend the tax law, in relation to the taxation of personal property of corporations.

Date of introduction February 21; referred to Committee on Taxation and Retrenchment; died in Senate.

EMERSON. Senate bill, introductory No. 617; printed No. 1697; Assembly printed No. 2118, entitled: An act to amend the tax law, generally.

Date of introduction February 21; referred to Committee on Taxation and Retrenchment; amended March 13, March 27, April 8; reported favorably and ordered to third reading April 11; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to second reading April 18; amended April 18; ordered to third reading April 19; passed April 19; emergency message. In Senate.—Assembly amendments concurred in April 19; emergency message. Record after passage.—Transmitted to Governor April 20; chapter No. 323.

EMERSON. Senate bill, introductory No. 646; printed No. 682, entitled: An act authorizing the changing of the form of incorporation of the Physicians' Hospital of Plattsburg from a stock corporation to a membership corporation.

Date of introduction February 23; referred to Committee on the Judiciary; died in Senate.

EMERSON. Senate bill, introductory No. 760; printed No. 818, entitled: An act to confer jurisdiction upon the court of claims to hear, try and determine the claim of Cyrus B. White for reimbursement for expenditures incurred for work, labor and services performed and materials furnished in the building of a dam and cleaning the outlet to Auger lake, in the county of Essex.

Date of introduction February 29; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Claims; committee discharged and ordered to third reading April 5; passed April 5. Record after passage.—Transmitted to Governor April 7; recalled April 18; retransmitted to Governor April 19; vetoed.

EMERSON. Senate bill, introductory No. 763; printed No. 821, entitled: An act to amend the town law, in relation to authorizing additional appropriations for town purposes.

Date of introduction February 29; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

EMERSON. Senate bill, introductory No. 802; printed No. 879, entitled: An act to amend the county law, in relation to the salary of the county judge and surrogate of Warren county.

Date of introduction March 3; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on second reading, March 27; ordered to third reading March 27; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 132.

EMERSON. Senate bill, introductory No. 864; printed No. 1385, entitled: An act to amend the tax law, in relation to the

determination and apportionment of mortgage taxes and repealing section two hundred and sixty thereof.

Date of introduction March 8; referred to Committee on Taxation and Retrenchment; amended and recommitted March 27; died in Senate.

EMERSON. Senate bill, introductory No. 865; printed No. 950, entitled: An act to amend the tax law, in relation to refund of mortgage tax.

Date of introduction March 8; referred to Committee on Taxation and Retrenchment; reported favorably and referred to the Committee of the Whole April 7; died in Senate.

EMERSON. Senate bill, introductory No. 866; printed No. 951, entitled: An act to amend the tax law, in relation to an optional tax on prior advanced mortgages.

Date of introduction March 8; referred to Committee on Taxation and Retrenchment; reported favorably and referred to the Committee of the Whole April 7; died in Senate.

EMERSON. Senate bill, introductory No. 892; printed No. 987, entitled: An act reappropriating an unexpended balance of part of a former appropriation made by chapter ninety-five of the laws of nineteen hundred and fourteen, entitled "An act enlarging the powers of the commission created to provide for the celebration of the centenary of the battle of Plattsburg and making an additional appropriation therefor."

Date of introduction March 9; referred to Committee on Finance; reported favorably and ordered to third reading March 15; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Ways and Means; committee discharged and substituted for Assembly bill, same title, on third reading, March 22; passed March 22. Record after passage.—Transmitted to Governor March 23; chapter No. 116.

EMERSON. Senate bill, introductory No. 905; printed No. 1012, entitled: An act to amend the tax law, in relation generally to taxable transfers.

Date of introduction March 10; referred to Committee on Taxation and Retrenchment; died in Senate.

EMERSON. Senate bill, introductory No. 906; printed No. 1013, entitled: An act to amend the tax law, in relation to taxable transfers of nonresidents.

Date of introduction March 10; referred to Committee on Taxation and Retrenchment; died in Senate.

EMERSON. Senate bill, introductory No. 928; printed No. 1040, entitled: An act to amend the tax law, in relation to taxable transfers.

Date of introduction March 14; referred to Committee on Taxation and Retrenchment; died in Senate.

EMERSON. Senate bill, introductory No. 944; printed No. 1063, entitled: An act to amend the general corporation law, in relation to sale of surplus electric current of certain railroads and manufacturing corporations.

Date of introduction March 15; referred to Committee on Public Service; died in Senate.

EMERSON. Senate bill, introductory No. 1024; printed No. 1156, entitled: An act authorizing the sale of surplus electric current produced at Clinton prison to the village of Dannemora.

Date of introduction March 17; referred to Committee on Finance; died in Senate.

EMERSON. Senate bill, introductory No. 1258; printed No. 1576, entitled: An act relating to highways in the town of Schroon in the county of Essex.

Date of introduction March 29; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; amended April 3; reported favorably and referred to the Committee of the Whole April 5; ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

EMERSON. Senate bill, introductory No. 1288; printed No. 1537, entitled: An act to amend the highway law, in relation to the improvement of highways for the use of horse drawn vehicles.

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Date of introduction March 31; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

EMERSON. Senate bill, introductory No. 1313; printed No. 1569, entitled: An act to confer jurisdiction upon the court of claims to hear, audit and determine the claim of Arthur S. Hogue against the state for services and expenses in connection with the investigation into the death of John Heffernan, a convict in Clinton prison, and to render judgment therefor.

Date of introduction April 3; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Claims; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; vetoed.

EMERSON. Senate bill, introductory No. 1385; printed No. 1727, entitled: An act to authorize the commissioners of the land office to cede to the United States of America certain lands in the city of Plattsburgh, Clinton county, for a site for a memorial in honor of Commodore Thomas Macdonough, in commemoration of his victory on Lake Champlain in September, eighteen hundred and fourteen.

Date of introduction April 10; ordered to third reading April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 269.

EMERSON. Senate bill, introductory No. 1418; printed No. 1805, entitled: An act to amend the liquor tax law, in relation to the sale of liquor on the day of an official primary election.

Date of introduction April 12; referred to Committee on Taxation and Retrenchment; died in Senate.

FOLEY. Senate bill, introductory No. 306; printed No. 307, entitled: An act to amend the real property law, in relation to the disposition of undisposed profits.

Date of introduction January 27; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 364.

FOLEY. Senate bill, introductory No. 359; printed No. 367, entitled: An act to amend the personal property law, in relation to trusts.

Date of introduction February 1; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; died in Senate.

FOLEY. Senate bill, introductory No. 360; printed No. 368, entitled: An act to amend the real property law, in relation to trusts.

Date of introduction February 1; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; died in Senate.

FOLEY. Senate bill, introductory No. 371; printed No. 379, entitled: An act to amend the Greater New York charter, in relation to the power of the police commissioner to offer rewards.

Date of introduction February 1; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 23; recommitted March 7; died in Senate.

FOLEY. Senate bill, introductory No. 372; printed No. 380, entitled: An act to amend the election law, in relation to the statement of canvass to be delivered to police.

Date of introduction February 1; referred to Committee on the Judiciary; died in Senate.

FOLEY. Senate bill, introductory No. 375; printed No. 532, entitled: An act to amend the judiciary law, in relation to clerks to justices of supreme court in the first judicial district.

Date of introduction February 1; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; amended February 9; ordered to third reading February 24; passed February 28. Assembly record.—Received from the Senate March 1; referred to the Committee on the Judiciary; reported favorably and ordered to second reading March 27; ordered to third reading March 28; passed March 29. Record after passage.—Transmitted to Governor March 30; chapter No. 117.

FOLEY. Senate bill, introductory No. 446; printed No. 465. entitled: An act to amend the public health law, in relation to the powers of dental societies.

Date of introduction February 7; referred to Committee on Public Health; died in Senate.

FOLEY. Senate bill, introductory No. 447; printed No. 1202, entitled: An act to amend the election law, in relation to the form of the general ballot.

Date of introduction February 7; referred to Committee on the Judiciary; amended and recommitted March 20; died in Senate.

FOLEY. Senate bill, introductory No. 464; printed No. 484. entitled: An act to amend the code of civil procedure, in relation to duties of persons having fiduciary relations with estates of decedents and providing a penalty for violation.

Date of introduction February 8; referred to Committee on Codes; reported favorably and ordered to third reading April 14; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Codes; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 588.

FOLEY. Senate bill, introductory No. 475; printed No. 497, entitled: An act to amend the public service commissions law, in relation to telephone lines and corporations.

Date of introduction February 9; referred to Committee on Public Service; reported favorably and ordered to third reading March 31; passed April 5. Assembly record.—Received from the Senate April 6; referred to Committee on Electricity, Gas and Water Supply; returned from Assembly dead.

FOLEY. Senate bill, introductory No. 476; printed No. 498, entitled: An act to amend the public service commissions law, in relation to rates of telegraph and telephone corporations.

Date of introduction February 9; referred to Committee on Public Service; died in Senate.

FOLEY. Senate bill, introductory No. 647; printed No. 683, entitled: An act to amend the Greater New York charter, in relation to cancellation and modification of contracts.

Date of introduction February 23; referred to Committee on Affairs of Cities; died in Senate.

FOLEY. Senate bill, introductory No. 648; printed No. 684, entitled: An act to amend chapter seven hundred and twenty-four of the laws of nineteen hundred and five, entitled "An act to provide for an additional supply of pure and wholesome water for the city of New York, and for the acquisition of lands or interests therein and for the construction of the necessary reservoirs, dams, aqueducts, filters and other appurtenances for that purpose; and for the appointment of a commission with the powers and duties necessary and proper to attain these objects," in relation to cancellation and modification of contracts.

Date of introduction February 23; referred to Committee on Affairs of Cities; died in Senate.

FOLEY. Senate bill, introductory No. 705; printed No. 758, entitled: An act to amend chapter five hundred and forty-one of the laws of nineteen hundred and twelve, entitled "An act to provide for the representation of the state of New York, at the Panama-Pacific International Exposition at San Francisco, California, celebrating the opening and commercial use of the Panama canal, and making an appropriation therefor," in relation to the

period during which salaries or expenses may be incurred, and when report shall be made.

Date of introduction February 28; referred to Committee on Finance; reported favorably and ordered to third reading March 1; Assembly bill, same title, substituted and passed March 2 (A. Pr. No. 995); chapter No. 16.

FOLEY. Senate bill, introductory No. 759; printed No. 817, entitled: An act to provide for the payment to Mary E. Delany of the balance of compensation payable to John J. Delany, late justice of the supreme court in and for the state of New York, for the months of July, August, September and October during the calendar year nineteen hundred and fifteen, by the city and county of New York.

Date of introduction February 29; referred to Committee on Finance; referred to Committee on Affairs of Cities March 8; reported favorably and referred to the Committee of the Whole March 23; ordered to third reading March 24; passed March 28. Assembly record.—Received from the Senate March 29; ordered to third reading March 29; passed March 29. Record after passage.—Transmitted to Mayor of New York March 30; returned from Mayor accepted April 7; transmitted to Governor April 7; chapter No. 197.

FOLEY. Senate bill, introductory No. 765; printed No. 823, entitled: An act to amend the penal law, in relation to applications for or procurement of marriage licenses.

Date of introduction March 1; referred to Committee on Codes: died in Senate.

FOLEY. Senate bill, introductory No. 766; printed No. 824, entitled: An act to amend the domestic relations law, in relation to false statements and affidavits respecting the solemnization of marriage and marriage licenses.

Date of introduction March 1; referred to Committee on Codes: died in Senate.

FOLEY. Senate bill, introductory No. 890; printed No. 1369, entitled: An act to amend the insurance law, in relation to title and credit guaranty corporations.

Date of introduction March 9; referred to Committee on Insurance; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; amended March 24; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Insurance; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 345.

FOLEY. Senate bill, introductory No. 929; printed No. 1655, entitled: An act to amend the code of civil procedure, in relation to judicial accounts by committees of incompetent persons.

Date of introduction March 14; referred to Committee on Codes; amended April 6; reported favorably and ordered to third reading April 14; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Codes; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 535.

FOLEY. Senate bill, introductory No. 930; printed No. 1042, entitled: An act to amend the code of civil procedure, in relation to affidavits of personal service without the state.

Date of introduction March 14; referred to Committee on Codes; reported favorably and ordered to third reading April 14; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Codes; committee discharged and substituted for Assembly bill, same title, on third reading, April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 439.

FOLEY. Senate bill, introductory No. 931; printed No. 1043, entitled: An act to amend the code of civil procedure, in relation to appointment of guardians ad litem and special guardians by supreme court.

Date of introduction March 14; referred to Committee on Codes; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Codes; committee discharged and substituted for Assembly bill, same title, on third reading, April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 440.

FOLEY. Senate bill, introductory No. 932; printed No. 1044, entitled: An act to amend the code of civil procedure, in relation to designation of person upon whom service of a summons for an infant shall be made.

Date of introduction March 14; referred to Committee on Codes; reported favorably and ordered to third reading April 14; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Codes; returned from Assembly dead.

FOLEY. Senate bill, introductory No. 933; printed No. 1045, entitled: An act to amend the code of civil procedure, in relation to compensation of persons designated pursuant thereto.

Date of introduction March 14; referred to Committee on Codes; died in Senate.

FOLEY. Senate bill, introductory No. 1116; printed No. 1264, entitled: An act to amend section one hundred and seventy-eight of the railroad law, in relation to the removal of ice and snow by street surface railroad corporations.

Date of introduction March 22; referred to Committee on Public Service; died in Senate.

FOLEY. Senate bill, introductory No. 1268; printed No. 1467, entitled: An act to repeal subdivision twelve of section six hundred and thirty-five of the judiciary law, in relation to jurors in New York county.

Date of introduction March 29; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Sen-

ate April 15; referred to the Committee on the Judiciary; returned from Assembly dead.

FOLEY. Senate bill, introductory No. 1289; printed No. 1749, entitled: An act to organize senate districts and for the apportionment of members of assembly of this state.

Date of introduction March 31; referred to Special Committee on Apportionment; amended and recommitted April 10; died in Senate.

FOLEY. Senate bill, introductory No. 1395; printed No. 1762, entitled: An act to amend the Greater New York charter, in relation to the powers of the commissioners of the sinking fund.

Date of introduction April 11; referred to Committee on Affairs of Cities; died in Senate.

FOLEY. Senate bill, introductory No. 1396; printed No. 1763, entitled: An act to amend section five hundred and forty-nine of the Greater New York charter, in relation to the relief and pension fund of the department of street cleaning.

Date of introduction April 11; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 18; died in Senate.

FOLEY. Senate bill, introductory No. 1423; printed No. 1812, entitled: An act to amend the lien law, generally.

Date of introduction April 12; ordered to third reading and referred to Committee on the Judiciary; reported favorably and restored to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; returned from Assembly dead.

GILCHRIST. Senate bill, introductory No. 82; printed No. 82, entitled: An act to amend the public health law, in relation to the sale and manufacture of bi-chloride of mercury.

Date of introduction January 5; referred to Committee on Public Health; died in Senate.

GILCHRIST. Senate bill, introductory No. 83; printed No. 1059, entitled: An act to amend the civil service law, in relation to promotions.

Date of introduction January 5; referred to Committee on Civil Service; amended February 2, March 14; reported favorably and ordered to third reading April 13; passed April 17. Assembly record.— Received from the Senate April 17; referred to the Committee on the Judiciary; returned from Assembly dead.

GILCHRIST. Senate bill, introductory No. 84; printed No. 84, entitled: An act to amend the general city law, in relation to promoting the health and efficiency of firemen in cities of the first class by providing for a two platoon system in the fire departments of such cities.

Date of introduction January 5; referred to Committee on Affairs of Cities; died in Senate.

GILCHRIST. Senate bill, introductory No. 85; printed No. 85, entitled: An act to amend the civil service law of the state of New York and the civil divisions and cities thereof, in relation to employees in the civil service of the state.

Date of introduction January 5; referred to Committee on Civil Service; reported favorably and referred to the Committee of the Whole April 14; died in Senate.

GILCHRIST. Senate bill, introductory No. 86; printed No. 86, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section four of article two of the constitution, in relation to registration and election laws, and to provide for special registration in certain cases.

Date of introduction January 5; referred to Committee on Judiciary; died in Senate.

GILCHRIST. Senate bill, introductory No. 87; printed No. 87, entitled: An act to amend article fifteen of chapter thirty-five of the laws of nineteen hundred and nine, known as the judiciary law, so as to provide that attorneys may administer oaths and take acknowledgments in certain cases.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

GILCHRIST. Senate bill, introductory No. 180; printed No. 180, entitled: An act to amend the banking law, in relation to restrictions on loans by banks.

Date of introduction January 19; referred to Committee on Banks; died in Senate.

GILCHRIST. Senate bill, introductory No. 181; printed No. 181, entitled: An act to amend the banking law, in relation to reserves of banks.

Date of introduction January 19; referred to Committee on Banks; died in Senate.

GILCHRIST. Senate bill, introductory No. 252; printed No. 252, entitled: An act to amend the penal law, in relation to advertisements and solicitations for employees during strikes, lock-outs and industrial disputes.

Date of introduction January 25; referred to Committee on Codes; died in Senate.

GILCHRIST. Senate bill, introductory No. 325; printed No. 917, entitled: An act to amend chapter one hundred and thirty-three of the laws of eighteen hundred and forty-seven, entitled "An act authorizing the incorporation of rural cemetery associations," in relation to the exemption of cemetery lands and property and to thoroughfares of the city of New York.

Date of introduction January 28; referred to Committee on Affairs of Cities; amended March 6; reported favorably and ordered to third reading April 14; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; returned from Assembly dead.

GILCHRIST. Senate bill, introductory No. 384; printed No. 393, entitled: An act to amend the labor law, in relation to the hours of labor of minors and women.

Date of introduction February 2; referred to Committee on Labor and Industries; died in Senate.

GILCHRIST. Senate bill, introductory No. 385; printed No. 394, entitled: An act to amend the real property law, in relation to registering titles to real property.

Date of introduction February 2; referred to Committee on the Judiciary; died in Senate.

GILCHRIST. Senate bill, introductory No. 459; printed No. 479, entitled: An act to amend the code of civil procedure, in relation to the purchase by a guardian ad litem at a sale of real estate in which the infant is interested.

Date of introduction February 8; referred to Committee on Codes; reported favorably and ordered to third reading April 11; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Codes; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 585.

GILCHRIST. Senate bill, introductory No. 460; printed No. 480, entitled: An act to amend the general business law, in relation to the manufacture and sale of disinfectants.

Date of introduction February 8; referred to Committee on the Judiciary; died in Senate.

GILCHRIST. Senate bill, introductory No. 461; printed No. 1479, entitled: An act to amend the Greater New York charter, in relation to expenditures for the relief of the blind.

Date of introduction February 8; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; amended March 22; ordered to third reading March 23; amended March 29; recommitted April 11; died in Senate.

GILCHRIST. Senate bill, introductory No. 462; printed No. 482, entitled: An act to regulate the manufacture and sale of bichloride of mercury, and to render the tablets harmless even if taken with suicidal intent.

Date of introduction February 8; referred to Committee on Affairs of Cities; died in Senate.

GILCHRIST. Senate bill, introductory No. 463; printed No. 483, entitled: An act authorizing the board of estimate and

apportionment of New York city to audit and allow the claims of Lester D. Volk, George H. Reichers, and Gerald Casper, for services as coroner's physicians in Kings county.

Date of introduction February 8; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 8; ordered to third reading March 13; passed March 15. Assembly record.—Received from the Senate March 20; substituted for Assembly bill, same title, on second reading March 20; ordered to third reading March 20; passed March 22. Record after passage.—Transmitted to Mayor of New York March 23; returned from Mayor not accepted April 7; motion to repass tabled April 11; died in Senate.

GILCHRIST. Senate bill, introductory No. 489; printed No. 1613, entitled: An act to amend the Greater New York charter, in relation to annual appropriations for Life Saving Service of the City of New York.

Date of introduction February 9; referred to Committee on Affairs of Cities; amended March 2; reported favorably and ordered to third reading April 5; amended April 5; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of New York April 18; transmitted to Governor April 20; not accepted by the city.

GILCHRIST. Senate bill, introductory No. 490; printed No. 512, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section nine of article five of the constitution, in relation to preferences, in employment and promotion, of soldiers, sailors and marines.

Date of introduction February 9; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Judiciary; returned from Assembly dead.

GILCHRIST. Senate bill, introductory No. 735; printed No. 788, entitled: An act to enable the city of New York to recompense certain aldermen for services rendered.

Date of introduction February 28; referred to Committee on Affairs of Cities; died in Senate.

GILCHRIST. Senate bill, introductory No. 736; printed No. 789, entitled: An act to amend the tax law so as to exempt from taxation for five years certain buildings hereafter erected for use as dwellings in relation to exemption of improvements.

Date of introduction February 28; referred to Committee on Taxation and Retrenchment; died in Senate.

GILCHRIST. Senate bill, introductory No. 758; printed No. 816, entitled: An act to authorize the chamberlain of the city of New York to cancel and write off his books certain worthless mortgages.

Date of introduction February 29; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Mayor of New York April 12; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 399.

GILCHRIST. Senate bill, introductory No. 762; printed No. 820, entitled: An act to provide for laying out upon the map or plan of the city of New York, Remsen avenue, in the borough of Brooklyn, and for the acquisition of title thereto by the city of New York, and for the improvement thereof by said city.

Date of introduction February 29; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading March 29; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 11; passed April 11. Record after

passage.— Transmitted to Mayor of New York April 12; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 495.

GILCHRIST. Senate bill, introductory No. 836; printed No. 1144, entitled: An act to amend the penal law so as to provide for punishment of seduction under pretense of marriage.

Date of introduction March 6; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 16; amended March 16; ordered to third reading March 21; passed March 23. Assembly record.— Received from the Senate March 24; referred to the Committee on Codes; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.— Transmitted to Governor April 7; chapter No. 196.

GILCHRIST. Senate bill, introductory No. 846; printed No. 927, entitled: An act to amend the Greater New York charter, in relation to coroners (chief medical examiners).

Date of introduction March 7; referred to Committee on Affairs of Cities; died in Senate.

GILCHRIST. Senate bill, introductory No. 926; printed No. 1036, entitled: An act to amend the public health law, in relation to the testing and labelling of disinfectants.

Date of introduction March 13; referred to Committee on Public Health; reported favorably and ordered to third reading April 10; recommitted April 14; committee discharged and restored to third reading April 18; lost and tabled April 18; died in Senate.

GILCHRIST. Senate bill, introductory No. 927; printed No. 1647, entitled: An act to amend the poor law, in relation to the relief of soldiers, sailors and their families.

Date of introduction March 13; ordered to third reading and referred to Committee on the Judiciary; amended March 23; reported favorably and restored to third reading April 5; amended April 6; passed April 14. Assembly record.— Received from

the Senate April 15; referred to Committee on Internal Affairs; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.— Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 532.

GILCHRIST. Senate bill, introductory No. 943; printed No. 1628, entitled: An act for the care and reformation of females, and concerning the public interests in the city of New York.

Date of introduction March 14; referred to Committee on Affairs of Cities; amended and recommitted April 5; died in Senate.

GILCHRIST. Senate bill, introductory No. 1061; printed No. 1770, entitled: An act to locate the boundary lines between the counties of Kings and Queens in such a manner that the same will run through the center of streets and avenues so far as possible.

Date of introduction March 21; referred to Committee on Affairs of Cities; amended April 11; reported favorably and ordered to third reading April 13; died in Senate.

GILCHRIST. Senate bill, introductory No. 1171; printed No. 1614, entitled: An act to amend section four hundred and eighty-four of the penal law, in relation to admission of children to places of public amusement.

Date of introduction March 23; referred to Committee on Codes; reported favorably and ordered to third reading April 5; amended April 5; recommitted April 14; died in Senate.

GILCHRIST. Senate bill, introductory No. 1347; printed No. 1913, entitled: An act to dispense with signatures and identification statements of enrolled voters in new or altered election districts within the city of New York, for the purposes of the official primary election to be held in the fall of the year nineteen hundred and sixteen.

Date of introduction April 6; ordered to third reading April 6; amended April 17; passed April 20. Assembly record.—

Received from the Senate April 20; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

GILCHRIST. Senate bill, introductory No. 1350; printed No. 1645, entitled: An act to authorize and empower the city of New York to adjust and settle questions of title, taxes and assessments affecting certain premises at Coney Island, in the borough of Brooklyn, city of New York.

Date of introduction April 6; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of New York April 18; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 500.

GILCHRIST. Senate bill, introductory No. 1400; printed No. 1767, entitled: An act authorizing the adjutant-general of the state of New York to pay and settle the claim against the state of New York by Frederic S. Greene, formerly a captain in the twenty-third regiment infantry, national guard, New York, on account of injuries received in military service of the state of New York.

Date of introduction April 11; ordered to third reading and referred to Committee on Military Affairs; reported favorably and restored to third reading April 14; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Claims; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 559.

GREINER. Senate bill, introductory No. 111; printed No. 111, entitled: An act to amend the education law, in relation to the reading of the scripture in schools.

Date of introduction January 10; referred to Committee on Public Education; committee discharged and referred to the Com-

mittee of the Whole April 12; ordered to third reading April 13; lost and tabled April 18; died in Senate.

GREINER. Senate bill, introductory No. 289; printed No. 289, entitled: An act to amend the Tonawanda city charter, generally.

Date of introduction January 26; referred to Committee on Affairs of Cities; died in Senate.

GREINER. Senate bill, introductory No. 356; printed No. 359, entitled: An act to amend the village law, in relation to the disposition of excise moneys received by towns in certain counties.

Date of introduction January 31; referred to Committee on Affairs of Villages; died in Senate.

GREINER. Senate bill, introductory No. 694; printed No. 745, entitled: An act to authorize the city of Buffalo to issue its bonds for the purpose of providing funds for the construction, reconstruction and enlargement of public trunk sewers, and to repeal chapter three hundred and seventy-three of the laws of nineteen hundred and twelve, entitled "An act to authorize the city of Buffalo to issue its bonds for the purpose of providing funds for the construction, reconstruction and enlargement of public trunk sewers."

Date of introduction February 25; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on third reading, March 22; passed March 22. Record after passage.—Transmitted to Mayor of Buffalo March 23; returned from Mayor accepted March 30; transmitted to Governor March 31; chapter No. 162.

GREINER. Senate bill, introductory No. 695; printed No. 746, entitled: An act to amend the public service commissions law, in relation to the regulation and supervision of water supply companies.

Date of introduction February 25; referred to Committee on Public Service; died in Senate.

GREINER. Senate bill, introductory No. 923; printed No. 1033, entitled: An act to amend the conservation law, in relation to game birds and animals reared or bred in captivity.

Date of introduction March 13; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole March 30; recommitted April 5; died in Senate.

GREINER. Senate bill, introductory No. 1058; printed No. 1198, entitled: An act defining the district benefited by and to be assessed for the cost and expense of taking lands for a new street from Newburgh avenue to East End avenue in the city of Buffalo.

Date of introduction March 20; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on third reading, April 13; passed April 13. Record after passage.—Transmitted to Mayor of Buffalo April 14; returned from Mayor accepted April 20; transmitted to Governor April 20; chapter No. 302.

GREINER. Senate bill, introductory No. 1106; printed No. 1861, entitled: An act to amend the general corporation law, in relation to certificates of authority of foreign corporations.

Date of introduction March 22; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 6; amended April 13; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on the Judiciary; reported favorably and ordered to second reading April 20; recommitted April 20; returned from Assembly dead.

HALLIDAY. Senate bill, introductory No. 167; printed No. 167, entitled: An act to amend the banking law, with reference to reports of declaration of dividends by banks and trust companies.

Date of introduction January 18; referred to Committee on Banks; died in Senate.

HALLIDAY. Senate bill, introductory No. 250; printed No. 250, entitled: An act making an appropriation for the purpose of repairing and reconstructing the dikes of Chemung river, in the city of Elmira.

Date of introduction January 25; referred to Committee on Finance; died in Senate.

HALLIDAY. Senate bill, introductory No. 251; printed No. 251, entitled: An act to amend the education law, relative to the election of school directors.

Date of introduction January 25; referred to Committee on Public Education; died in Senate.

HALLIDAY. Senate bill, introductory No. 274; printed No. 274, entitled: An act authorizing the city of Elmira to issue bonds for paving purposes.

Date of introduction January 26; referred to Committee on Affairs of Cities; died in Senate.

HALLIDAY. Senate bill, introductory No. 275; printed No. 275, entitled: An act to authorize the city of Elmira to transfer the property of "The Elmira City Tuberculosis Sanitorium" to the county of Chemung to be used for a tuberculosis hospital, and for the disposition of the remaining property.

Date of introduction January 26; referred to Committee on Affairs of Cities; died in Senate.

HALLIDAY. Senate bill, introductory No. 392; printed No. 401, entitled: An act making an appropriation for the purpose of protecting the bank of the Chemung river in the town of Chemung, Chemung county.

Date of introduction February 2; referred to Committee on Finance; died in Senate.

HALLIDAY. Senate bill, introductory No. 413; printed No. 429, entitled: An act to repeal section one hundred and seventy-one-b of the tax law, relating to conferences of local assessors.

Date of introduction February 3; referred to Committee on Taxation and Retrenchment; died in Senate.

HALLIDAY. Senate bill, introductory No. 642; printed No. 678, entitled: An act to amend the tax law, in relation to the taxation of goods, wares and merchandise in cities and villages.

Date of introduction February 22; referred to Committee on Taxation and Retrenchment; died in Senate.

HALLIDAY. Senate bill, introductory No. 643; printed No. 679, entitled: An act to amend the Ithaca city charter, in relation to creating a lien on lands benefited, for the cost and expense of sidewalks, and providing for collection thereof.

Date of introduction February 22; referred to Committee on Affairs of Cities; died in Senate.

HALLIDAY. Senate bill, introductory No. 714; printed No. 1750, entitled: An act to amend chapter four hundred and seventy-seven of the laws of nineteen hundred and six, entitled "An act to revise the charter of the city of Elmira," in relation to the sale of liquor in said city.

Date of introduction February 28; referred to Committee on Affairs of Cities; referred to Committee on Taxation and Retrenchment February 29; amended and recommitted April 10; died in Senate.

HALLIDAY. Senate bill, introductory No. 715; printed No. 768, entitled: An act making an appropriation for the New York State Veterinary College.

Date of introduction February 28; referred to Committee on Finance; reported favorably and ordered to third reading April 14; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 629.

HALLIDAY. Senate bill, introductory No. 889; printed No. 1057, entitled: An act to amend the tax law, in relation to conferences of local assessors.

Date of introduction March 9; referred to Committee on Taxation and Retrenchment; amended and recommitted March 13; died in Senate.

HALLIDAY. Senate bill, introductory No. 1025; printed No. 1157, entitled: An act to amend chapter one hundred and twenty-five of the laws of eighteen hundred and sixty-one, entitled "An act to consolidate and amend the several acts relating to the village of Watkins and to enlarge the powers of the corporation of said village," in relation to abolishing the office of police justice and repealing certain sections thereof relating to such officer.

Date of introduction March 17; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 5. Assembly record.—Received from the Senate April 8; referred to the Committee on Affairs of Villages; returned from Assembly dead.

HALLIDAY. Senate bill, introductory No. 1026; printed No. 1837, entitled: An act to provide for the relocation of the channels of Catherine creek and Falls creek in the village of Montour Falls, and making an appropriation therefor.

Date of introduction March 17; referred to Committee on Finance; amended and recommitted April 12; died in Senate.

HALLIDAY. Senate bill, introductory No. 1050; printed No. 1191, entitled: An act to provide for repairs to the existing dike on Mill creek at Watkins in the county of Schuyler, and making an appropriation therefor.

Date of introduction March 20; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole April 13; Committee of the Whole discharged and ordered to third reading April 19; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Ways and Means; returned from Assembly dead.

HALLIDAY. Senate bill, introductory No. 1165; printed No. 1866, entitled: An act to amend chapter four hundred and sixty-seven of the laws of nineteen hundred and eight, entitled

“An act to establish a state farm for women,” by providing therefor a board of managers.

Date of introduction March 23; referred to Committee on Finance; amended and recommitted April 13; died in Senate.

HALLIDAY. Senate bill, introductory No. 1222; printed No. 1899, entitled: An act making an appropriation for the improvement of the Newtown Battlefield Monument Park at Elmira and the expenses of the commission.

Date of introduction March 27; referred to Committee on Finance; amended April 13, April 15; reported favorably and ordered to third reading April 17; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Ways and Means; returned from Assembly dead.

HALLIDAY. Senate bill, introductory No. 1346; printed No. 1641, entitled: An act in relation to tax sales heretofore made by the treasurer of the county of Tompkins.

Date of introduction April 6; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 307.

HALLIDAY. Senate bill, introductory No. 1442; printed No. 1859, entitled: An act to confer jurisdiction upon the court of claims to hear, audit and determine the claim of John E. Frost, second, for moneys advanced to employees of the American Scenic and Historical Preservation Society at Watkins Glen.

Date of introduction April 13; ordered to third reading and referred to Committee on the Judiciary; reported favorably and restored to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Claims; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

HAMILTON. Senate bill, introductory No. 63; printed No. 63, entitled: An act to amend the charter of the city of New York, relative to the department of education.

Date of introduction January 5; referred to Committee on Affairs of Cities; died in Senate.

HAMILTON. Senate bill, introductory No. 64; printed No. 64, entitled: An act to amend the election law in relation to the publication of primary and general election pamphlets.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

HAMILTON. Senate bill, introductory No. 65; printed No. 65, entitled: An act to amend section ten hundred and eighty-four of the charter of the city of New York, relative to evening sessions of high schools.

Date of introduction January 5; referred to Committee on Affairs of Cities; died in Senate.

HAMILTON. Senate bill, introductory No. 66; printed No. 66, entitled: An act to amend the public health law, in relation to the sale of habit-forming drugs.

Date of introduction January 5; referred to Committee on Public Health; died in Senate.

HAMILTON. Senate bill, introductory No. 67; printed No. 67, entitled: An act to amend the agricultural law with relation to the powers, term of office, and compensation of the commissioner of agriculture.

Date of introduction January 5; referred to Committee on Agriculture; died in Senate.

HAMILTON. Senate bill, introductory No. 68; printed No. 68, entitled: An act to amend the agricultural law providing for the further supervision of the manufacture and sale of food and drinks, and for penalties for violation thereof.

Date of introduction January 5; referred to Committee on Agriculture; died in Senate.

HAMILTON. Senate bill, introductory No. 69; printed No. 603, entitled: An act to amend the real property law, in relation to registering title to real property.

Date of introduction January 5; referred to Committee on the Judiciary; amended and recommitted February 17; died in Senate.

HAMILTON. Senate bill, introductory No. 70; printed No. 70, entitled: An act to amend the election law, in relation to personal registration of traveling salesmen.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

HAMILTON. Senate bill, introductory No. 71; printed No. 71, entitled: An act to amend the railroad law, in relation to the establishment of stations and the stopping of trains thereat.

Date of introduction January 5; referred to Committee on Public Service; died in Senate.

HAMILTON. Senate bill, introductory No. 72; printed No. 72, entitled: An act to regulate street railway fares in all cities.

Date of introduction January 5; referred to Committee on Public Service; died in Senate.

HAMILTON. Senate bill, introductory No. 73; printed No. 430, entitled: An act to amend the Greater New York charter, in relation to commissioners of deeds.

Date of introduction January 5; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 2; amended February 3; ordered to third reading February 8; passed February 21. Assembly record.—Received from the Senate February 23; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading March 23; ordered to third reading March 24; passed March 28. Record after passage.—Transmitted to Mayor of New York March 29; returned from Mayor accepted April 7; transmitted to Governor April 7; chapter No. 190.

HAMILTON. Senate bill, introductory No. 74; printed No. 74, entitled: An act to amend chapter eight hundred and fifty-five of the laws of nineteen hundred and eleven, entitled "An act authorizing the justices of the appellate division of the supreme court in the first department to retire employees for incapacity and providing for their compensation," in relation to retirement of such employees.

Date of introduction January 5; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading April 6; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 480.

HAMILTON. Senate bill, introductory No. 75; printed No. 837; Assembly printed No. 2088, entitled: An act to amend the executive law, in relation to notary public acting in more than one county.

Date of introduction January 5; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 1; amended March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on the Judiciary; amended April 13; reported favorably and ordered to third reading April 18; passed April 18. In Senate.—Assembly amendments concurred in April 19. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

HAMILTON. Senate bill, introductory No. 76; printed No. 76, entitled: An act to amend the county law, in relation to county judges in Bronx county.

Date of introduction January 5; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

HAMILTON. Senate bill, introductory No. 77; printed No. 1343, entitled: An act to amend the public service law, in re-

lation to applying the interest on the deposits for meters for gas or electricity on the consumer's bill.

Date of introduction January 5; referred to Committee on Public Service; amended March 23; reported favorably and referred to the Committee of the Whole March 31; died in Senate.

HAMILTON. Senate bill, introductory No. 78; printed No. 78, entitled: An act to amend the public service commissions law, in relation to return of deposits for installing gas and electric meters.

Date of introduction January 5; referred to Committee on Public Service; died in Senate.

HAMILTON. Senate bill, introductory No. 254; printed No. 662, entitled: An act to amend the public health law, relative to the sale of proprietary and patent medicines.

Date of introduction January 25; referred to Committee on Public Health; amended and recommitted February 22; died in Senate.

HAMILTON. Senate bill, introductory No. 305; printed No. 306, entitled: An act to amend the election law, in relation to organization and rules of committees.

Date of introduction January 27; referred to Committee on the Judiciary; died in Senate.

HAMILTON. Senate bill, introductory No. 369; printed No. 377, entitled: An act to amend the code of civil procedure, in relation to the conditions precedent for the issuance of an order in supplementary proceedings.

Date of introduction February 1; referred to Committee on Codes; died in Senate.

HAMILTON. Senate bill, introductory No. 393; printed No. 797, entitled: An act to amend the Greater New York charter, in relation to licensing and regulating of massage parlors.

Date of introduction February 2; referred to Committee on Affairs of Cities; reported favorably and referred to the Com-

mittee of the Whole February 23; ordered to third reading February 24; amended February 28; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading March 23; ordered to third reading March 24; passed March 28. Record after passage.—Transmitted to Mayor of New York March 29; returned from Mayor accepted April 7; transmitted to Governor April 7; chapter No. 192.

HAMILTON. Senate bill, introductory No. 566; printed No. 596, entitled: An act to amend the code of civil procedure, in relation to executions issued by justices of the peace.

Date of introduction February 17; referred to Committee on Codes; died in Senate.

HAMILTON. Senate bill, introductory No. 567; printed No. 597, entitled: An act to amend the New York city municipal court code, in relation to executions.

Date of introduction February 17; referred to Committee on Codes; died in Senate.

HAMILTON. Senate bill, introductory No. 568; printed No. 598, entitled: An act to amend the code of civil procedure, in relation to executions.

Date of introduction February 17; referred to Committee on Codes; died in Senate.

HAMILTON. Senate bill, introductory No. 569; printed No. 599, entitled: An act to amend the code of civil procedure, in relation to notations to be made by county clerk in receiverships.

Date of introduction February 17; referred to Committee on Codes; died in Senate.

HAMILTON. Senate bill, introductory No. 570; printed No. 873, entitled: An act to amend the county law, in relation to the appointment of special deputy county clerks.

Date of introduction February 17; referred to Committee on Internal Affairs of Towns, Counties and Public Highways: reported favorably and referred to the Committee of the Whole

February 24; ordered to third reading March 1; amended March 2; passed March 9. Assembly record.—Received from the Senate March 10; referred to the Committee on Internal Affairs; committee discharged and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; chapter No. 452.

HAMILTON. Senate bill, introductory No. 629; printed No. 665, entitled: An act to amend the public health law, relative to the practice of pharmacy.

Date of introduction February 22; referred to Committee on Public Health; died in Senate.

HAMILTON. Senate bill, introductory No. 777; printed No. 835, entitled: An act to amend the general corporations law, in relation to corporate names.

Date of introduction March 1; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 15. Assembly record.—Received from the Senate March 20; referred to the Committee on the Judiciary; reported favorably and ordered to second reading March 31; ordered to third reading April 3; passed April 3. Record after passage.—Transmitted to Governor April 5; chapter No. 222.

HAMILTON. Senate bill, introductory No. 1003; printed No. 1132, entitled: An act to amend the tax law, with reference to the appointment of a transfer tax assistant in the county of the Bronx.

Date of introduction March 16; referred to Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 562.

HAMILTON. Senate bill, introductory No. 1004; printed No. 1133, entitled: An act to amend the code of civil procedure, in relation to definitions used in chapter eighteen thereof.

Date of introduction March 16; referred to Committee on Codes; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Codes; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 447.

HAMILTON. Senate bill, introductory No. 1173; printed No. 1346, entitled: An act to amend the New York city municipal court code, in relation to time when actions shall be dismissed for neglect to prosecute.

Date of introduction March 24; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city.

HAMILTON. Senate bill, introductory No. 1214; printed No. 1409, entitled: An act to amend the civil service law, in relation to the competitive class.

Date of introduction March 27; referred to Committee on Civil Service; died in Senate.

HAMILTON. Senate bill, introductory No. 1215; printed No. 1789, entitled: An act to amend the civil service law, in relation to the classification of county employees.

Date of introduction March 27; referred to Committee on Civil Service; amended and recommitted April 12; died in Senate.

HAMILTON. Senate bill, introductory No. 1216; printed No. 1411, entitled: An act to amend the civil service law, in relation to publication of calendar of meetings of commission.

Date of introduction March 27; referred to Committee on Civil Service; died in Senate.

HAMILTON. Senate bill, introductory No. 1217; printed No. 1412, entitled: An act to amend the civil service law, in relation to the power of removal, discipline and penalties.

Date of introduction March 27; referred to Committee on Civil Service; died in Senate.

HAMILTON. Senate bill, introductory No. 1218; printed No. 1413, entitled: An act to amend the civil service law, in relation to promotions.

Date of introduction March 27; referred to Committee on Civil Service; died in Senate.

HAMILTON. Senate bill, introductory No. 1448; printed No. 1883, entitled: An act authorizing the police commissioner of the city of New York to rehear the charges upon which John H. Downs, formerly a patrolman in the police department of the said city, was dismissed from said department, and to reinstate him in the position formerly held by him.

Date of introduction April 14; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 618.

HAMILTON. Senate bill, introductory No. 1449; printed No. 1884, entitled: An act to amend the general construction law, in relation to holidays.

Date of introduction April 14; referred to Committee on the Judiciary; died in Senate.

HEFFERNAN. Senate bill, introductory No. 248; printed No. 248, entitled: An act to provide for the payment by the state of the claim of Michael O'Sullivan against the Brooklyn Heights Railroad Company and the city of New York for materials furnished and services rendered, together with interest and costs, and making an appropriation therefor.

Date of introduction January 25; referred to Committee on Finance; died in Senate.

HEFFERNAN. Senate bill, introductory No. 267; printed No. 267, entitled: An act to authorize the adjutant general of the state to hear and determine the application of Mary O'Donnell, the mother of John F. O'Donnell, a national guardsman, who died from injuries received while on duty as such, to be placed upon the roll of invalid pensioners of this state and to place her upon such roll.

Date of introduction January 26; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; Assembly bill, same title, substituted April 3; passed April 5 (A. Pr. No. 551); chapter No. 561.

HEFFERNAN. Senate bill, introductory No. 712; printed No. 765, entitled: An act to amend the tax law, in relation to providing for a tax on the sale or transfer of goods, accompanied by the delivery of any trading stamp or other similar device.

Date of introduction February 28; referred to Committee on Taxation and Retrenchment; died in Senate.

HEFFERNAN. Senate bill, introductory No. 713; printed No. 766, entitled: An act to amend the personal property law, in relation to sale of goods in bulk.

Date of introduction February 28; referred to Committee on the Judiciary; died in Senate.

HEWITT. Senate bill, introductory No. 191; printed No. 191, entitled: An act to amend chapter one hundred and sixty of the laws of nineteen hundred, entitled "An act to incorporate the city of Cortland," by changing the maximum limitation of indebtedness of said city from eight per centum to ten per centum of the assessed valuation of the real property of said city subject to taxation, exclusive of the debt created for the municipal ownership by said city of its water works system.

Date of introduction January 19; referred to Committee on Affairs of Cities; died in Senate.

HEWITT. Senate bill, introductory No. 295; printed No. 296, entitled: An act to amend the charter of the city of Cortland, in relation to resurfacing, repairing and restoring streets or any part thereof.

Date of introduction January 27; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 1; Assembly bill, same title, substituted March 15; passed March 21 (A. Pr. No. 1204); chapter No. 149.

HEWITT. Senate bill, introductory No. 399; printed No. 1096, entitled: An act to amend the prison law, in relation to providing for a parole commission to succeed the board of parole.

Date of introduction February 3; referred to Committee on Penal Institutions; reported favorably and referred to the Committee of the Whole March 15; amended March 15; died in Senate.

HEWITT. Senate bill, introductory No. 630; printed No. 666, entitled: An act to amend chapter one hundred and eighty-five of the laws of nineteen hundred and six, entitled "An act to revise the charter of the city of Auburn," in relation to the amount to be added to the tax budget for contingent expenses of the city.

Date of introduction February 22; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 8; ordered to third reading March 9; passed March 13. Assembly record.—Received from the Senate March 14; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading March 23; ordered to third reading March 24; passed March 28. Record after passage.—Transmitted to Mayor of Auburn March 29; returned from Mayor accepted April 6; transmitted to Governor April 7; chapter No. 189.

HEWITT. Senate bill, introductory No. 778; printed No. 847, entitled: An act to amend the agricultural law, in relation to compensation for animals destroyed by the commissioner of agriculture.

Date of introduction March 2; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 10; ordered to third reading March 13; passed March 20. Assembly record.—Received from the Senate March 21; referred to the Committee on Agriculture; reported favorably and ordered to second reading March 31; returned from Assembly dead.

HEWITT. Senate bill, introductory No. 799; printed No. 868, entitled: An act to amend the highway law, in relation to the construction, improvement and repair by counties of bridges having span of over twenty-five feet.

Date of introduction March 2; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

HEWITT. Senate bill, introductory No. 918; printed No. 1686, entitled: An act to amend the highway law generally.

Date of introduction March 13; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; amended March 22; ordered to third reading March 30; amended April 5, April 7; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading April 17; ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 578.

HEWITT. Senate bill, introductory No. 919; printed No. 1029, entitled: An act to amend the highway law, in relation to the acceptance of county highways.

Date of introduction March 13; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Internal Affairs; reported favorably and

ordered to third reading April 13; passed April 13. Record after passage.— Transmitted to Governor April 14; chapter No. 460.

HEWITT. Senate bill, introductory No. 920; printed No. 1030, entitled: An act to amend the highway law, in relation to state and county highways of additional width and increased cost at expense of town.

Date of introduction March 13; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 6; passed April 11. Assembly record.— Received from the Senate April 12; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.— Transmitted to Governor April 14; chapter No. 461.

HEWITT. Senate bill, introductory No. 921; printed No. 1031, entitled: An act to amend the railroad law, in relation to the repair of bridges and subways at crossings.

Date of introduction March 13; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 31; ordered to third reading April 3; passed April 5. Assembly record.— Received from the Senate April 6; referred to the Committee on Railroads; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.— Transmitted to Governor April 14; chapter No. 484.

HEWITT. Senate bill, introductory No. 1011; printed No. 1140, entitled: An act to amend the highway law, in relation to extraordinary repairs of highways and bridges.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 30; passed April 5. Assembly record.— Received from the Senate April 6; referred to the Committee on Internal Affairs; returned from Assembly dead.

HEWITT. Senate bill, introductory No. 1127; printed No. 1017, entitled: An act to confer jurisdiction upon the court of claims to hear, audit and determine the amount of damages suffered by Fred T. Newcomb by reason of the loss of a horse, caused by a defective state highway in the village of Homer, Cortland county.

Date of introduction March 23; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; amended April 5; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Claims; returned from Assembly dead.

HEWITT. Senate bill, introductory No. 1290; printed No. 1539, entitled: An act to amend the military law, in relation to armories.

Date of introduction March 31; referred to Committee on Military Affairs; reported favorably and ordered to third reading April 12; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Military Affairs; returned from Assembly dead.

HEWITT. Senate bill, introductory No. 1291; printed No. 1540, entitled: An act to amend chapter one hundred and eighty-five of the laws of nineteen hundred and six, entitled "An act to revise the charter of the city of Auburn," in relation to the payment by the city at large of the cost of sewers designed and built exclusively for storm water purposes, the issue of bonds therefor, and the refund of any moneys paid by the taxpayers of any sewer district for such sewers.

Date of introduction March 31; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Mayor of Auburn April 14; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 375.

HEWITT. Senate bill, introductory No. 1292; printed No. 1541, entitled: An act to authorize the city of Auburn to require

the discontinuance and removal of vaults, privies and cesspools upon premises within said city, and the construction and installation of improved sanitary toilet and other facilities thereon; to borrow money and issue its bonds in aid thereof; to provide for the payment of such bonds, and for the assessment of the cost of such improvements against the property affected.

Date of introduction March 31; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 5; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Mayor of Auburn April 14; transmitted to Governor April 20; not returned by Mayor within time limit.

HEWITT. Senate bill, introductory No. 1306; printed No. 1562, entitled: An act to authorize the board of trustees of the village of Waterloo to issue bonds to pay the cost of paving portions of West Main street in said village in which the tracks of the Geneva, Seneca Falls and Auburn Railroad Company, incorporated, are located and to assess the cost thereof on such railroad company.

Date of introduction April 3; ordered to third reading and referred to Committee on Affairs of Villages; reported favorably and restored to third reading April 6; passed April 10. Assembly record.—Received from the Senate April 10; referred to the Committee on Affairs of Villages; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 272.

HEWITT. Senate bill, introductory No. 1309; printed No. 1565, entitled: An act to confer jurisdiction on the court of claims to hear, audit and determine the alleged claim of Byron F. Johnson against the state for damages for personal injuries alleged to have been sustained by the claimant on account of faulty construction of a state route.

Date of introduction April 3; ordered to third reading and referred to Committee on the Judiciary; reported favorably and

restored to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 10; referred to the Committee on Claims; returned from Assembly dead.

HEWITT. Senate bill, introductory No. 1310; printed No. 1566, entitled: An act to amend chapter one hundred and eighty-five of the laws of nineteen hundred and six, entitled "An act to revise the charter of the city of Auburn," in relation to the appointment and election of city officers.

Date of introduction April 3; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading April 6; passed April 10. Assembly record.—Received from the Senate April 10; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Mayor of Auburn April 14; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 388.

HEWITT. Senate bill, introductory No. 1312; printed No. 1568, entitled: An act to amend the highway law, in relation to the registration fees for certain motor vehicles.

Date of introduction April 3; ordered to third reading and referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and restored to third reading April 5; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading April 17; ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 598.

HEWITT. Senate bill, introductory No. 1428; printed No. 1819, entitled: An act making an appropriation for the expenses of the commissioner of highways, superintendent of public works and the state engineer and surveyor in preparing a schedule of registration fees to be paid by auto-trucks and omnibuses.

Date of introduction April 12; ordered to third reading and referred to Committee on Finance; reported favorably and

restored to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 638.

HILL. Senate bill, introductory No. 169; printed No. 169; Assembly printed No. 1392, entitled: An act to amend the labor law, in relation to one day of rest in seven.

Date of introduction January 18; ordered to third reading January 18; passed January 25. Assembly record.—Received from the Senate January 27; ordered to third reading and referred to the Committee on Labor and Industries; reported favorably and restored to third reading February 1; amended February 9, March 14; recommitted March 28; returned from Assembly dead.

HILL. Senate bill, introductory No. 195; printed No. 195, entitled: An act to amend the civil service law, in relation to retiring veterans and pensioning them.

Date of introduction January 20; referred to Committee on Civil Service; died in Senate.

HILL. Senate bill, introductory No. 308; printed No. 875, entitled: An act to amend the liquor tax law, in relation to special deputy commissioner in the counties of Broome and Nassau.

Date of introduction January 27; referred to Committee on Taxation and Retrenchment; amended March 2; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; ordered to third reading March 22; passed March 22. Record after passage.—Transmitted to Governor March 23; chapter No. 122.

HILL. Senate bill, introductory No. 331; printed No. 335, entitled: An act to amend the railroad law, in relation to qualifications of certain employees of railroads.

Date of introduction January 31; referred to Committee on

Public Service; reported favorably and referred to the Committee of the Whole April 13; died in Senate.

HILL. Senate bill, introductory No. 422; printed No. 441. entitled: An act making an appropriation to reimburse the city of Binghamton for a portion of the sum expended by such city in building a dike.

Date of introduction February 7; referred to Committee on Finance; died in Senate.

HILL. Senate bill, introductory No. 505; printed No. 534. entitled: An act to amend the county law, in relation to soldiers' monument.

Date of introduction February 10; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; ordered to third reading March 1; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on Internal Affairs; returned from Assembly dead.

HILL. Senate bill, introductory No. 518; printed No. 547. entitled: An act to amend the liquor tax law, in relation to the effect of a violation of the provisions of such law with respect to trafficking in liquors on Sunday otherwise than in connection with keeping a hotel.

Date of introduction February 10; referred to Committee on Taxation and Retrenchment; died in Senate.

HILL. Senate bill, introductory No. 526; printed No. 555. entitled: An act to consolidate the Broome County Humane Society, the Binghamton Bureau of Associated Charities and The Binghamton Board of Charities.

Date of introduction February 11; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 9; ordered to third reading March 9; passed March 9. Record after passage.—Transmitted to Governor March 10; chapter No. 66.

HILL. Senate bill, introductory No. 663; printed No. 699, entitled: An act to amend the charter of the city of Binghamton, in relation to boundaries of the twelfth and thirteenth wards.

Date of introduction February 23; referred to Committee on Affairs of Cities; died in Senate.

HILL. Senate bill, introductory No. 798; printed No. 867, entitled: An act to amend the charter of the city of Binghamton, in relation to appointment of standing committees of common council.

Date of introduction March 2; referred to Committee on Affairs of Cities; died in Senate.

HILL. Senate bill, introductory No. 895; printed No. 990, entitled: An act to amend chapter twenty-two of the laws of nineteen hundred and two, entitled "An act making the office of treasurer of Broome county a salaried office and regulating the management thereof," as amended by chapter four hundred and forty of the laws of nineteen hundred and four, and by chapter four hundred and ninety-eight of the laws of nineteen hundred and eight, relative to the appointment of an attorney by said treasurer.

Date of introduction March 9; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on second reading, March 30; ordered to third reading March 30; passed March 30. Record after passage.—Transmitted to Governor March 31; chapter No. 181.

HILL. Senate bill, introductory No. 1158; printed No. 1315, entitled: An act to amend the general municipal law, in relation to local boards of child welfare.

Date of introduction March 23; ordered to third reading and referred to Committee on the Judiciary; reported favorably and

restored to third reading March 29; Assembly bill, same title. substituted April 6; passed April 10 (A. Pr. No. 1656); chapter No. 504.

HILL. Senate bill, introductory No. 1161; printed No. 1826, entitled: An act to provide for the separation of adult and minor prisoners in county penitentiaries.

Date of introduction March 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 12; amended April 12; Assembly bill, same title, substituted April 13; passed April 19 (A. Pr. No. 2014); chapter No. 394.

HILL. Senate bill, introductory No. 1162; printed No. 1319, entitled: An act to amend the county law, in relation to the manner of providing food for prisoners detained in county jails.

Date of introduction March 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

HILL. Senate bill, introductory No. 1244; printed No. 1443, entitled: An act to amend the insurance law, in relation to the election of the superintendent of insurance.

Date of introduction March 29; referred to Committee on Insurance; died in Senate.

HORTON. Senate bill, introductory No. 11; printed No. 798, entitled: An act to increase the number of the justices of the supreme court in the eighth judicial district of the state and to provide for additional justices therein.

Date of introduction January 5; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 23; amended February 23; ordered to third reading February 28; amended February 28; recommitted February 29; reported favorably and restored to third reading March 22; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on the Judiciary; committee discharged and substituted for Assembly bill, same

title, on third reading, March 28; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 165.

HORTON. Senate bill, introductory No. 12; printed No. 712; Assembly printed No. 2059, entitled: An act to amend the membership corporations law, in relation to the consolidation of certain corporations.

Date of introduction January 5; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 23; amended February 23; ordered to third reading March 1; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on the Judiciary; reported favorably and ordered to second reading March 15; recommitted March 20; reported and restored to second reading April 11; amended April 11; ordered to third reading April 18; passed April 18. In Senate.—Assembly amendments concurred in April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 421.

HORTON. Senate bill, introductory No. 110; printed No. 110, entitled: An act making an appropriation for the expenses of an investigation of the civil lists of the state by the civil service committee of the senate.

Date of introduction January 10; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading January 19; passed January 24. Assembly record.—Received from the Senate January 26; referred to the Committee on Ways and Means; committee discharged and substituted for Assembly bill, same title, on second reading, January 27; ordered to third reading January 27; passed January 31. Record after passage.—Transmitted to Governor February 2; chapter No. 1.

HORTON. Senate bill, introductory No. 115; printed No. 115, entitled: An act to amend the penal law, in relation to agents.

Date of introduction January 10; referred to Committee on Codes; died in Senate.

HORTON. Senate bill, introductory No. 116; printed No. 116, entitled: An act to amend the tax law, in relation to the exemption from taxation of a mortgage recorded on withdrawal of title from registration.

Date of introduction January 10; referred to Committee on Taxation and Retrenchment; died in Senate.

HORTON. Senate bill, introductory No. 123; printed No. 965, entitled: An act to amend chapter seven hundred and forty-six of the laws of nineteen hundred and eleven, entitled "An act making provision for issuing bonds to the amount of not to exceed nineteen million eight hundred thousand dollars for the purpose of furnishing proper terminals and facilities for Barge canal traffic, including the acquisition and interchange of property therefor, with a view to improving and fostering the commerce of the state, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and eleven," in relation to terminals in the city of Buffalo.

Date of introduction January 11; referred to Committee on Affairs of Cities; amended March 8; reported favorably and referred to the Committee of the Whole March 23; ordered to third reading March 30; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Affairs of Cities; returned from Assembly dead.

HORTON. Senate bill, introductory No. 124; printed No. 966, entitled: An act to amend chapter eight hundred and one of the laws of nineteen hundred and thirteen, entitled "An act to amend chapter one hundred and forty-seven of the laws of nineteen hundred and three, entitled 'An act making provision for issuing bonds to the amount of not to exceed one hundred and one million dollars for the improvement of the Erie canal, the Oswego canal and the Champlain canal, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and three,' in relation to toll bridges over the Barge canal."

Date of introduction January 11; referred to Committee on Affairs of Cities; amended March 8; reported favorably and re-

ferred to the Committee of the Whole March 23; ordered to third reading March 30; passed April 10. Assembly record.— Received from the Senate April 11; referred to the Committee on Affairs of Cities; returned from Assembly dead.

HORTON. Senate bill, introductory No. 130; printed No. 130, entitled: An act to amend chapter five hundred and eighty-one of the laws of nineteen hundred and thirteen, entitled “An act to amend chapter five hundred and seventy of the laws of nineteen hundred and nine, entitled ‘An act to establish the city court of Buffalo, defining its powers and jurisdiction and providing for its officers,’ in relation to appeals.”

Date of introduction January 12; referred to Committee on Affairs of Cities; died in Senate.

HORTON. Senate bill, introductory No. 162; printed No. 162, entitled: An act to amend the charter of the city of Buffalo, in relation to the initiative.

Date of introduction January 18; referred to Committee on Affairs of Cities; died in Senate.

HORTON. Senate bill, introductory No. 163; printed No. 163, entitled: An act to amend the charter of the city of Buffalo, in relation to the recall.

Date of introduction January 18; referred to Committee on Affairs of Cities; died in Senate.

HORTON. Senate bill, introductory No. 164; printed No. 164, entitled: An act to amend the charter of the city of Buffalo, in relation to the nomination and election of mayor and councilmen by the preferential ballot.

Date of introduction January 18; referred to Committee on Affairs of Cities; died in Senate.

HORTON. Senate bill, introductory No. 203; printed No. 203, entitled: An act to amend chapter one hundred and sixty of the laws of nineteen hundred and twelve, entitled “An act providing for the erection of a boathouse, shelters, wharves and re-

taining walls at the city of Buffalo, for the third division of the third battalion of the naval militia, upon lands of the state in the city of Buffalo, and making an appropriation therefor," generally, and making an appropriation and a former appropriation available for related purposes.

Date of introduction January 20; referred to Committee on Finance; died in Senate.

HORTON. Senate bill, introductory No. 279; printed No. 279, entitled: An act to legalize, ratify, confirm and validate all proceedings of the voters of the town of Aurora and of the board of supervisors of Erie county, in relation to the issuance of certain bonds or certificates of indebtedness; to authorize the execution and issuance of the portion thereof now unissued, and to authorize the raising of money by taxation to pay the principal and interest of all such bonds.

Date of introduction January 26; referred to Committee on the Judiciary; died in Senate.

HORTON. Senate bill, introductory No. 416; printed No. 1845, entitled: An act to amend section twenty-four hundred and forty-two of the code of civil procedure, in relation to referees in proceedings supplementary to execution.

Date of introduction February 4; referred to Committee on Codes; reported favorably and ordered to third reading April 13; amended April 13; recommitted April 18; died in Senate.

HORTON. Senate bill, introductory No. 417; printed No. 436, entitled: An act to authorize the preparation and printing of a highway map of the state by the commissioner of highways.

Date of introduction February 4; referred to Committee on Finance; died in Senate.

HORTON. Senate bill, introductory No. 429; printed No. 448, entitled: An act making an appropriation to enable the state institute for the study of malignant diseases to procure radium, mesothorium or radio-active materials and to provide for the making of such substances therefrom.

Date of introduction February 7; referred to Committee on Finance; died in Senate.

HORTON. Senate bill, introductory No. 443; printed No. 462, entitled: An act to amend chapter five hundred and eighteen of the laws of nineteen hundred and fifteen, entitled "An act to extend the time within which the International Railway Company of Buffalo shall complete its railroads in the city of Buffalo, and begin the operation of the same beyond their present construction and operation."

Date of introduction February 7; referred to Committee on Public Service; died in Senate.

HORTON. Senate bill, introductory No. 506; printed No. 535, entitled: An act to amend the insurance law, in relation to domestic insurance corporations doing business in a foreign state or territory.

Date of introduction February 10; referred to Committee on Insurance; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Insurance; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 590.

HORTON. Senate bill, introductory No. 507; printed No. 536, entitled: An act to amend the personal property law, in relation to the transfer of goods in bulk.

Date of introduction February 10; referred to Committee on the Judiciary; died in Senate.

HORTON. Senate bill, introductory No. 608; printed No. 1688, entitled: An act to amend the charter of the city of Buffalo, generally.

Date of introduction February 21; referred to Committee on Affairs of Cities; amended March 23; reported favorably and ordered to third reading April 7; amended April 7; Assembly bill,

same title, substituted and passed April 13 (A. Pr. No. 2041); chapter No. 260.

HORTON. Senate bill, introductory No. 631; printed No. 667, entitled: An act to amend the code of civil procedure, in relation to stenographer's fees in the surrogate's court of the county of Erie.

Date of introduction February 22; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; Assembly bill, same title, substituted and passed March 29 (A. Pr. No. 309); chapter No. 160.

HORTON. Senate bill, introductory No. 632; printed No. 668, entitled: An act to amend the civil service law, in relation to power of municipal commissions to conduct investigations.

Date of introduction February 22; referred to Committee on Civil Service; died in Senate.

HORTON. Senate bill, introductory No. 633; printed No. 1480, entitled: An act to authorize the assessment of the cost and expense of taking lands in fee simple included within Elmwood avenue as formerly laid out and established between Virginia and Allen streets, and the lands necessary for the purpose of widening Elmwood avenue and extending Morgan street in the city of Buffalo.

Date of introduction February 22; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; amended March 29; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on second reading, April 11; ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Mayor of Buffalo April 12; returned from Mayor accepted April 20; transmitted to Governor April 20; chapter No. 303.

HORTON. Senate bill, introductory No. 638; printed No. 1377, entitled: An act conferring jurisdiction upon the court of claims to hear and determine the claim of Ida Lorch against the state, and to make an award therefor.

Date of introduction February 22; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; amended March 27; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Claims; returned from Assembly dead.

HORTON. Senate bill, introductory No. 639; printed No. 1378, entitled: An act conferring jurisdiction upon the court of claims to hear and determine the claim of Harold Muma against the state, and to make an award therefor.

Date of introduction February 22; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; amended March 27; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Claims; returned from Assembly dead.

HORTON. Senate bill, introductory No. 686; printed No. 728, entitled: An act to amend the election law, in relation to special enrollment after moving.

Date of introduction February 24; ordered to third reading February 24; referred to Committee on the Judiciary March 6; died in Senate.

HORTON. Senate bill, introductory No. 717; printed No. 770, entitled: An act authorizing the selection of lands as a site for the Western New York State Custodial Asylum, and establishing the said asylum.

Date of introduction February 28; referred to Committee on Finance; died in Senate.

HORTON. Senate bill, introductory No. 718; printed No. 771, entitled: An act to amend the decedent estate law, in re-

lation to the validity and proof of wills executed without the state.

Date of introduction February 28; referred to Committee on the Judiciary; died in Senate.

HORTON. Senate bill, introductory No. 719; printed No. 772, entitled: An act to amend the public health law, in relation to the cold storage of certain articles of food and repealing the provisions of the present law relating thereto.

Date of introduction February 28; referred to Committee on Public Health; died in Senate.

HORTON. Senate bill, introductory No. 720; printed No. 773, entitled: An act to amend the penal law and the code of criminal procedure, in relation to desertion and non-support, and to repeal certain sections of such law and code relating thereto.

Date of introduction February 28; referred to Committee on Codes; died in Senate.

HORTON. Senate bill, introductory No. 721; printed No. 774, entitled: An act in relation to partnerships, constituting the uniform partnership law.

Date of introduction February 28; referred to Committee on the Judiciary; died in Senate.

HORTON. Senate bill, introductory No. 755; printed No. 813, entitled: An act to revive and extend the corporate existence of the Sigel Real Estate and Investment Company.

Date of introduction February 29; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 312.

HORTON. Senate bill, introductory No. 772; printed No. 830, entitled: An act to amend the agricultural law, in relation to the number of deputy commissioners of agriculture.

Date of introduction March 1; referred to Committee on Agriculture; died in Senate.

HORTON. Senate bill, introductory No. 773; printed No. 831, entitled: An act to amend the domestic relations law, in relation to marriages in evasion or violation of the law of the domicile.

Date of introduction March 1; referred to Committee on the Judiciary; died in Senate.

HORTON. Senate bill, introductory No. 774; printed No. 832, entitled: An act to amend the code of civil procedure, relating to matrimonial actions.

Date of introduction March 1; referred to Committee on Codes; died in Senate.

HORTON. Senate bill, introductory No. 775; printed No. 833, entitled: An act to amend the prison law, in relation to the board of parole.

Date of introduction March 1; referred to Committee on Penal Institutions; died in Senate.

HORTON. Senate bill, introductory No. 849; printed No. 934, entitled: An act to amend the civil service law, in relation to removal of state civil service commissioners.

Date of introduction March 8; referred to Committee on Civil Service; reported favorably and referred to the Committee of the Whole April 8; died in Senate.

HORTON. Senate bill, introductory No. 850; printed No. 935, entitled: An act to amend the military law, in relation to ordering out the militia.

Date of introduction March 8; referred to Committee on Military Affairs; died in Senate.

HORTON. Senate bill, introductory No. 851; printed No. 936, entitled: An act to amend the code of criminal procedure, in relation to ordering out the militia.

Date of introduction March 8; referred to Committee on Codes; died in Senate.

HORTON. Senate bill, introductory No. 861; printed No. 946, entitled: An act to create a board of equalization for the county of Erie for the equalization of taxes and assessments, and to define its powers and duties.

Date of introduction March 8; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

HORTON. Senate bill, introductory No. 867; printed No. 952, entitled: An act to amend the town law, in relation to the compensation of assessors.

Date of introduction March 8; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

HORTON. Senate bill, introductory No. 868; printed No. 953, entitled: An act to amend the county law, in relation to county supervisors of assessments.

Date of introduction March 8; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

HORTON. Senate bill, introductory No. 987; printed No. 1117, entitled: An act to amend the penal law, in relation to obtaining money by fraudulent check, draft or order.

Date of introduction March 16; referred to Committee on Codes; died in Senate.

HORTON. Senate bill, introductory No. 988; printed No. 1118, entitled: An act making a reappropriation of money heretofore appropriated for a memorial to Jesse Ketchum.

Date of introduction March 16; referred to Committee on Finance; died in Senate.

HORTON. Senate bill, introductory No. 989; printed No. 1119, entitled: Concurrent resolution of the Senate and Assembly proposing the repeal of sections twenty-six and twenty-seven

of article three, the insertion of two new sections at the beginning of article ten to be numbered sections one and two respectively and the renumbering and amendment of sections one to nine respectively of article ten of the constitution.

Date of introduction March 16; referred to Committee on the Judiciary; died in Senate.

HORTON. Senate bill, introductory No. 990; printed No. 1120, entitled: An act to amend the charter of the city of Buffalo, in relation to the discontinuance or alteration of a canal, basin, slip, street, or alley.

Date of introduction March 16; referred to Committee on Affairs of Cities; died in Senate.

HORTON. Senate bill, introductory No. 991; printed No. 1121, entitled: An act to amend the charter of the city of Buffalo, relating to lieutenants of police.

Date of introduction March 16; referred to Committee on Affairs of Cities; died in Senate.

HORTON. Senate bill, introductory No. 1042; printed No. 1183, entitled: An act to amend the tax law, in relation to the return of unpaid taxes and the sale of lands for the non-payment thereof.

Date of introduction March 20; referred to Committee on Taxation and Retrenchment; died in Senate.

HORTON. Senate bill, introductory No. 1043; printed No. 1184, entitled: An act to release to William J. Park the right, title and interest of the state acquired by escheat through and on account of the death of Bessie A. (Jordon) Park, of, in and to a certain lot or parcel of real estate, to which such decedent had or claimed title at the time of her death, and located on Sixteenth street, in the city of Buffalo, known as number one hundred and sixty-three, on such street.

Date of introduction March 20; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed

April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 544.

HORTON. Senate bill, introductory No. 1044; printed No. 1185, entitled: An act to amend the state charities law, in relation to additional powers of the state board of charities with respect to certain societies and institutions.

Date of introduction March 20; referred to Committee on the Judiciary; died in Senate.

HORTON. Senate bill, introductory No. 1045; printed No. 1186, entitled: An act to amend the public health law, in relation to physicians' records of habit-forming drugs prescribed.

Date of introduction March 20; referred to Committee on Public Health; died in Senate.

HORTON. Senate bill, introductory No. 1046; printed No. 1187, entitled: An act to amend the penal law, and the state charities law, in relation to permitting children to attend certain resorts.

Date of introduction March 20; referred to Committee on Codes; died in Senate.

HORTON. Senate bill, introductory No. 1051; printed No. 1626, entitled: An act to amend the executive law, in relation to creating the department of state police and defining the powers and duties of its forces, and making an appropriation therefor.

Date of introduction March 20; referred to Committee on Finance; amended April 1, April 3, April 5; reported favorably and referred to the Committee of the Whole April 11; ordered to third reading April 13; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; lost April 20; returned from Assembly dead.

HORTON. Senate bill, introductory No. 1112; printed No. 1260, entitled: An act to incorporate the "Buckhorn Association."

Date of introduction March 22; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on the Judiciary; committee discharged and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; chapter No. 188.

HORTON. Senate bill, introductory No. 1174; printed No. 1896, entitled: An act to amend public service commissions law, in relation to approval of transfer of capital stock.

Date of introduction March 24; referred to Committee on Public Service; reported favorably and ordered to third reading April 14; amended April 14; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

HORTON. Senate bill, introductory No. 1224; printed No. 1708, entitled: An act to amend the civil service law of the state of New York, in relation to the classification and grading of state employees.

Date of introduction March 27; referred to Committee on Civil Service; reported favorably and referred to the Committee of the Whole April 8; amended April 8; ordered to third reading April 13; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on the Judiciary; returned from Assembly dead.

HORTON. Senate bill, introductory No. 1230; printed No. 1428, entitled: An act to amend the banking law, in relation to the reincorporation as investment companies of certain corporations.

Date of introduction March 28; referred to Committee on Banks; reported favorably and ordered to third reading April 11: Assembly bill, same title, substituted and passed April 13 (A. Pr. No. 1954); not signed by Governor.

HORTON. Senate bill, introductory No. 1231; printed No. 1429, entitled: An act to amend the town law, in relation to sewers.

Date of introduction March 28; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

HORTON. Senate bill, introductory No. 1232; printed No. 1430, entitled: An act to amend the village law, in relation to sewers.

Date of introduction March 28; referred to Committee on Affairs of Villages; died in Senate.

HORTON. Senate bill, introductory No. 1233; printed No. 1431, entitled: An act to amend the domestic relations law, in relation to and regulating marriages and marriage licenses; and to provide uniformity between the states in reference thereto.

Date of introduction March 28; referred to Committee on the Judiciary; died in Senate

HORTON Senate bill, introductory No 1234; printed No. 1432, entitled: An act to create the Niagara hydro-electric power commission, and to define its powers and duties, and making an appropriation therefor.

Date of introduction March 28; referred to Committee on Finance; died in Senate.

HORTON. Senate bill, introductory No. 1243; printed No. 1860, entitled: 'An act to amend chapter three hundred and forty-five of the laws of eighteen hundred and eighty-eight, entitled "An act to provide for the relief of the city of Buffalo and to change and regulate the crossing and occupation of the streets, avenues and public grounds in said city by railroads," in relation to damages.

Date of introduction March 28; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; amended April 13; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Mayor of Buffalo, April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 576.

HORTON. Senate bill, introductory No. 1296; printed No. 1545, entitled: An act to amend the civil service law, in relation to the changing of the classification of offices and positions from the exempt class to the competitive class and the filling of the same by competitive examination.

Date of introduction March 31; referred to Committee on Civil service; died in Senate.

HORTON. Senate bill, introductory No. 1297; printed No. 1546, entitled: An act to confer jurisdiction on the court of claims to hear, audit and determine the claim of Harry D. Williams against the state for legal services and disbursements made for the state on the employment of the forest, fish and game commission, and to render judgment therefor.

Date of introduction March 31; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Claims; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; vetoed.

HORTON. Senate bill, introductory No. 1323; printed No. 1595, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to sections one, four and six of article two of the constitution, in relation to the enactment of laws regulating elections and the registration and voting of electors.

Date of introduction April 5; referred to Committee on the Judiciary; died in Senate.

HORTON. Senate bill, introductory No. 1365; printed No. 1682, entitled: An act to amend the lien law, in relation to liens for service of bulls.

Date of introduction April 7; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on General Laws; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 301.

HORTON. Senate bill, introductory No. 1407; printed No. 1794, entitled: An act making an appropriation for expenses in connection with the butter and egg investigation conducted by the attorney-general.

Date of introduction April 12; referred to Committee on Finance; reported favorably and ordered to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 641.

HORTON. Senate bill, introductory No. 1408; printed No. 1795, entitled: An act to amend the judiciary law, in relation to stenographers in the eighth judicial district.

Date of introduction April 12; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 344.

HORTON. Senate bill, introductory No. 1433; printed No. 1850, entitled: An act making an appropriation for the expenses of the civil service committee of the senate in continuing its investigation into the civil service of the state.

Date of introduction April 13; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 630.

HORTON. Senate bill, introductory No. 1450; printed No. 1885, entitled: An act making an appropriation for the board of examiners of feeble-minded criminals and other defectives.

Date of introduction April 14; referred to Committee on Finance; died in Senate.

HORTON. Senate bill, introductory No. 1459; printed No. 1905, entitled: An act in relation to the expense of widening, regrading and resurfacing or repaving West Ferry street between the west line of Niagara street and the Erie canal in the city of Buffalo.

Date of introduction April 15; ordered to third reading and referred to Committee on Affairs of Cities; died in Senate.

JONES. Senate bill, introductory No. 186; printed No. 186, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article seven of the constitution, in relation to highways.

Date of introduction January 19; referred to Committee on the Judiciary; died in Senate.

JONES. Senate bill, introductory No. 187; printed No. 187, entitled: An act to provide for the creation by popular vote of prohibition territory within which, except as herein provided, the sale of intoxicating liquor and the licensing of such sale shall be prohibited; for the enforcement of such prohibition in such territory; and for the abolition by like means, as herein provided, of the territory so created.

Date of introduction January 19; referred to Committee on Taxation and Retrenchment; died in Senate.

JONES. Senate bill, introductory No. 196; printed No. 196, entitled: An act to amend the highway law, in relation to providing for the improvement of one and three-tenths miles of the highway leading from the State Women's Relief Corps Home at Oxford, and making an appropriation therefor.

Date of introduction January 20; referred to Committee on Finance; reported favorably and ordered to third reading April 14; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 634.

JONES. Senate bill, introductory No. 228; printed No. 228, entitled: An act to amend the state finance law, in relation to the payment and audit of the expenses of committees of the legislature.

Date of introduction January 24; referred to Committee on Finance; died in Senate.

JONES. Senate bill, introductory No. 253; printed No. 253, entitled: An act to amend the penal law, in relation to the sale of gambling implements.

Date of introduction January 25; referred to Committee on Codes; died in Senate.

JONES. Senate bill, introductory No. 340; printed No. 343, entitled: An act to amend the charter of the city of Oneida, generally, and to repeal certain sections thereof.

Date of introduction January 31; referred to Committee on Affairs of Cities; died in Senate.

JONES. Senate bill, introductory No. 444; printed No. 463, entitled: An act to amend chapter two hundred and nineteen of the laws of nineteen hundred and nine, entitled "An act in relation to transportation corporations, excepting railroads, constituting chapter sixty-three of the consolidated laws."

Date of introduction February 7; referred to Committee on Public Service; died in Senate.

JONES. Senate bill, introductory No. 548; printed No. 1513, entitled: An act to amend the railroad law, in relation to equipment of engines.

Date of introduction February 14; referred to Committee on Public Service; amended March 30; reported favorably and referred to the Committee of the Whole April 13; died in Senate.

JONES. Senate bill, introductory No. 635; printed No. 1870, entitled: An act to amend the public health law, in relation to the practice of nursing.

Date of introduction February 22; referred to Committee on Public Health; reported favorably and referred to the Committee of the Whole April 10; ordered to third reading April 13; amended April 13; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Public Health; returned from Assembly dead.

JONES. Senate bill, introductory No. 687; printed No. 729, entitled: An act to amend the election law, in relation to division into election districts of wards in cities of the third class.

Date of introduction February 24; referred to Committee on the Judiciary; died in Senate.

JONES. Senate bill, introductory No. 688; printed No. 730, entitled: An act to provide that appropriations for maintenance of the several state normal schools made by chapter seven hundred and twenty-five of the laws of nineteen hundred and fifteen shall be available for the payment of the salaries of teachers as fixed prior to October first, nineteen hundred and fifteen.

Date of introduction February 24; referred to Committee on Finance; died in Senate.

JONES. Senate bill, introductory No. 689; printed No. 731, entitled: An act to amend the transportation corporations law, in relation to the powers of electric light companies in cities of the third class.

Date of introduction February 24; referred to Committee on Public Service; died in Senate.

JONES. Senate bill, introductory No. 693; printed No. 1337, entitled: An act to amend the highway law, in relation to providing an alternative method of apportioning the cost of construction or improvement of county highways.

Date of introduction February 24; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; amended March 23; passed March 30. Assembly record.—Received from the Senate March 30; ordered to third reading March 30; passed March 30. Record after passage.—Transmitted to Governor March 31; chapter No. 179.

JONES. Senate bill, introductory No. 757; printed No. 815, entitled: An act to protect the health and morals of the people of the state of New York, to promote temperance and to suppress the evils of intemperance and to prohibit the manufacture, sale and possession of certain intoxicating and habit-forming liquors.

Date of introduction February 29; referred to Committee on Taxation and Retrenchment; died in Senate.

JONES. Senate bill, introductory No. 911; printed No. 1021, entitled: An act to provide for the creation by popular remonstrance of prohibition territory within which, except as herein provided, the sale of intoxicating liquor and the licensing of such sale shall be prohibited; for the enforcement of such prohibition in such territory; and for the abolition by like means, as herein provided, of the territory so created.

Date of introduction March 13; referred to Committee on Taxation and Retrenchment; died in Senate.

JONES. Senate bill, introductory No. 985; printed No. 1489, entitled: An act to amend the charter of the city of Oneonta, in relation to the construction of a sewage disposal system and the issue of bonds in payment therefor.

Date of introduction March 16; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended March 29; ordered to

third reading April 3; passed April 5. Assembly record.— Received from the Senate April 5; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on third reading, April 6; passed April 6. Record after passage.— Transmitted to Mayor of Oneonta April 7; returned from Mayor accepted April 19; transmitted to Governor April 20; chapter No. 267.

JONES. Senate bill, introductory No. 986; printed No. 1267, entitled: An act authorizing the counties of Otsego and Delaware to acquire the rights, interest and property of the Oneonta and Franklin Turnpike Company and repealing certain acts relating to such company.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; amended March 22; ordered to third reading March 28; passed March 30. Assembly record.— Received from the Senate March 31; referred to the Committee on Internal Affairs; committee discharged and ordered to third reading April 6; passed April 6. Record after passage.— Transmitted to Governor April 7; chapter No. 232.

JONES. Senate bill, introductory No. 1166; printed No. 1442, entitled: An act to provide for the creation by popular vote of prohibition territory within which, except as herein provided, the sale of intoxicating liquor and the licensing of such sale shall be prohibited; for the enforcement of such prohibition in such territory; and for the abolition by like means, as herein provided, of the territory so created.

Date of introduction March 23; referred to Committee on Taxation and Retrenchment; amended March 28; committee discharged and referred to the Committee of the Whole April 19; died in Senate.

JONES. Senate bill, introductory No. 1241; printed No. 1439, entitled: An act to repeal chapter seven hundred and seventy-nine of the laws of nineteen hundred and eleven, entitled

"An act establishing a state athletic commission and regulating boxing and sparring in the state of New York."

Date of introduction March 28; referred to Committee on the Judiciary; died in Senate.

JONES. Senate bill, introductory No. 1301; printed No. 1550, entitled: An act to amend the penal law, in relation to picture reproductions of fights, sparring exhibitions and boxing bouts.

Date of introduction March 31; referred to Committee on Codes; died in Senate.

JONES. Senate bill, introductory No. 1343; printed No. 1638, entitled: An act to amend chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, in relation to state game refuges.

Date of introduction April 6; ordered to third reading and referred to Committee on Conservation; reported favorably and restored to third reading April 11; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Conservation; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 523.

JOSEPH. Senate bill, introductory No. 145; printed No. 145, entitled: An act to amend the penal law, in relation to provisions where credit is obtained by aid of written statement respecting ability to pay.

Date of introduction January 17; referred to Committee on Codes; died in Senate.

JOSEPH. Senate bill, introductory No. 146; printed No. 146, entitled: An act to amend the code of civil procedure, in relation to arrests, pending the action and proceedings thereupon.

Date of introduction January 17; referred to Committee on Codes; died in Senate.

JOSEPH. Senate bill, introductory No. 161; printed No. 161, entitled: An act to amend chapter seven hundred and sev-

enty-nine of the laws of nineteen hundred and eleven, entitled "An act establishing a state athletic commission and regulating boxing and sparring in the state of New York," in relation to announcing decision of contest.

Date of introduction January 18; referred to Committee on the Judiciary; died in Senate.

JOSEPH. Senate bill, introductory No. 296; printed No. 297, entitled: An act to amend the penal law, in relation to permitting labor and secular business on the first day of the week by certain persons.

Date of introduction January 27; referred to Committee on Codes; died in Senate.

JOSEPH. Senate bill, introductory No. 341; printed No. 344, entitled: An act to amend the New York city municipal court code, in relation to the return of jury and jurors' fees.

Date of introduction January 31; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole February 14; ordered to third reading February 21; passed February 23. Assembly record.—Received from the Senate February 24; referred to the Committee on Codes; reported favorably and ordered to second reading March 8; ordered to third reading March 9; passed March 13. Record after passage.—Transmitted to Mayor of New York March 14; returned from Mayor accepted March 24; transmitted to Governor March 24; chapter No. 123.

JOSEPH. Senate bill, introductory No. 342; printed No. 345, entitled: An act to amend the judiciary law, in relation to exemption from jury duty in New York and Kings counties.

Date of introduction January 31; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; ordered to third reading March 1; re-committed March 1; died in Senate.

JOSEPH. Senate bill, introductory No. 364; printed No. 372, entitled: An act to amend the code of civil procedure, in relation to limiting the time for return of an execution.

Date of introduction February 1; referred to Committee on Codes; died in Senate.

JOSEPH. Senate bill, introductory No. 365; printed No. 373, entitled: An act authorizing and directing the comptroller of the city of New York to apportion and refund certain taxes paid upon the real estate in the said city belonging to the First Hungarian Congregation Ohab Zedek.

Date of introduction February 1; referred to Committee on Affairs of Cities; died in Senate.

JOSEPH. Senate bill, introductory No. 366; printed No. 374, entitled: An act to amend the code of civil procedure, in relation to punishment for wilful false swearing in supplementary proceedings.

Date of introduction February 1; referred to Committee on Codes; died in Senate.

JOSEPH. Senate bill, introductory No. 387; printed No. 840, entitled: An act to amend the penal law, in relation to the selling or possessing of silencers for firearms.

Date of introduction February 2; referred to Committee on Codes; amended February 21, February 24, March 1; reported favorably and referred to the Committee of the Whole March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Penal Institutions; reported favorably and ordered to second reading March 16; recommitted March 20; committee discharged and substituted for Assembly bill, same title, on third reading, March 22; passed March 27. Record after passage.—Transmitted to Governor March 28; chapter No. 137.

JOSEPH. Senate bill, introductory No. 494; printed No. 516; Assembly printed No. 1813, entitled: An act to amend the Greater New York charter, in relation to the detail of patrolmen at polls.

Date of introduction February 9; referred to Committee on Affairs of Cities; reported favorably and referred to the Com-

mittee of the Whole March 8; ordered to third reading March 9; passed March 15. Assembly record.—Received from the Senate March 20; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading March 23; amended March 23; ordered to third reading March 30; passed April 5. In Senate.—Assembly amendments concurred in April 5. Record after passage.—Transmitted to Mayor of New York April 7; transmitted to Governor April 20; not accepted by the city.

JOSEPH. Senate bill, introductory No. 521; printed No. 550, entitled: An act to amend the penal law, in relation to premiums with sales by druggists and pharmacists.

Date of introduction February 10; referred to Committee on Codes; died in Senate.

JOSEPH. Senate bill, introductory No. 877; printed No. 962, entitled: An act to amend the penal law, in relation to corporations practicing pharmacy.

Date of introduction March 8; referred to Committee on Codes; died in Senate.

JOSEPH. Senate bill, introductory No. 942; printed No. 1054, entitled: An act to amend the judiciary law, in relation to delinquent jurors in New York county.

Date of introduction March 14; referred to Committee on the Judiciary; died in Senate.

JOSEPH. Senate bill, introductory No. 968; printed No. 1087, entitled: An act to amend the Greater New York charter, in relation to the penalty for failure to report marriages and births to the department of health.

Date of introduction March 15; referred to Committee on Affairs of Cities; died in Senate.

JOSEPH. Senate bill, introductory No. 994; printed No. 1124, entitled: An act to amend the penal law, in relation to obtaining money by a fraudulent check or draft.

Date of introduction March 16; referred to Committee on Codes; died in Senate.

JOSEPH. Senate bill, introductory No. 995; printed No. 1125, entitled: An act to amend the general corporation law, in relation to accounts receivable.

Date of introduction March 16; referred to Committee on the Judiciary; died in Senate.

JOSEPH. Senate bill, introductory No. 1054; printed No. 1651, entitled: An act to amend the New York city municipal court code, in relation to the venue of actions.

Date of introduction March 20; referred to Committee on Codes; reported favorably and ordered to third reading April 6; amended April 6; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Codes; returned from Assembly dead.

JOSEPH. Senate bill, introductory No. 1076; printed No. 1220, entitled: An act to amend the judiciary law, in relation to holding naturalization courts in the evening.

Date of introduction March 21; referred to Committee on the Judiciary; died in Senate.

JOSEPH. Senate bill, introductory No. 1077; printed No. 1221, entitled: An act to amend chapter one hundred and six of the laws of eighteen hundred and ninety-five, entitled "An act to incorporate the grand court of the state of New York of the Ancient Order of Foresters of America," by changing the title of such act to conform to the laws of chapter eight hundred and three of the laws of eighteen hundred and ninety-six and otherwise in relation to the name of such society.

Date of introduction March 21; referred to Committee on the Judiciary; died in Senate.

JOSEPH. Senate bill, introductory No. 1278; printed No. 1502, entitled: An act to amend the code of criminal procedure, in relation to appeals by the people.

Date of introduction March 30; referred to Committee on Codes; died in Senate.

JOSEPH. Senate bill, introductory No. 1329; printed No. 1603, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section ten of article eight of the constitution, in relation to the tax rate in certain counties and cities.

Date of introduction April 5; referred to Committee on the Judiciary; died in Senate.

JOSEPH. Senate bill, introductory No. 1330; printed No. 1604; entitled: An act to incorporate the United Synagogue of America, a union for promoting traditional Judaism and defining its objects and powers.

Date of introduction April 5; ordered to third reading and referred to Committee on the Judiciary; reported favorably and restored to third reading April 12; passed April 12. Assembly record.—Received from the Senate April 14; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 268.

LAWSON. Senate bill, introductory No. 136; printed No. S36, entitled: An act to amend the penal law, in relation to soliciting, from candidates for office, payment for advertising or for tickets to entertainments.

Date of introduction January 13; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 1; amended March 1; died in Senate.

LAWSON. Senate bill, introductory No. 137; printed No. 137, entitled: An act to amend the Greater New York charter, in relation to support of poor persons by relatives.

Date of introduction January 13; referred to Committee on Affairs of Cities; died in Senate.

LAWSON. Senate bill, introductory No. 138; printed No. 1095, entitled: An act to amend the penal law, in relation to the Sabbath.

Date of introduction January 13; referred to Committee of Codes; reported favorably and referred to the Committee of the Whole March 1; amended March 15; died in Senate.

LAWSON. Senate bill, introductory No. 153; printed No. 795, entitled: An act to amend the conservation law, in relation to netting in Jamaica bay and adjoining waters.

Date of introduction January 18; referred to Committee on Conservation; amended and recommitted February 24, February 28; died in Senate.

LAWSON. Senate bill, introductory No. 154; printed No. 1838, entitled: An act to amend the conservation law, in relation to nets in Hudson and Delaware rivers and adjacent waters.

Date of introduction January 18; referred to Committee on Conservation; amended February 24; reported favorably and referred to the Committee of the Whole April 12; amended April 12; died in Senate.

LAWSON. Senate bill, introductory No. 155; printed No. 738, entitled: An act to amend the conservation law, in relation to open season of striped bass.

Date of introduction January 18; referred to Commission on Conservation; amended and recommitted February 24; died in Senate.

LAWSON. Senate bill, introductory No. 182; printed No. 182, entitled: An act to amend the tax law, in relation to deduction from special franchise tax for local purposes.

Date of introduction January 19; referred to Committee on Taxation and Retrenchment; died in Senate.

LAWSON. Senate bill, introductory No. 282; printed No. 282, entitled: An act to amend the Greater New York charter, in relation to the police department.

Date of introduction January 26; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 13; died in Senate.

LAWSON. Senate bill, introductory No. 283; printed No. 283, entitled: An act to amend the Greater New York charter, in relation to the police department.

Date of introduction January 26; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 13; Assembly bill, same title, substituted and passed April 14 (A. Pr. No. 1432); chapter No. 611.

LAWSON. Senate bill, introductory No. 284; printed No. 284, entitled: An act to amend the Greater New York charter, in relation to the police department.

Date of introduction January 26; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 13; died in Senate.

LAWSON. Senate bill, introductory No. 304; printed No. 305, entitled: An act to amend the Greater New York charter, in relation to the law department.

Date of introduction January 27; referred to Committee on Affairs of Cities; died in Senate.

LAWSON. Senate bill, introductory No. 477; printed No. 499, entitled: An act to amend the state printing law, the executive law, the judiciary law and the legislative law, in relation to the delivery to and distribution by the state library of state publications.

Date of introduction February 9; referred to Committee on Public Printing; died in Senate.

LAWSON. Senate bill, introductory No. 478; printed No. 500, entitled: An act to amend the state printing law, in relation to the publication of the New York legislative documents.

Date of introduction February 9; referred to Committee on Public Printing; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Public Printing; returned from Assembly dead.

LAWSON. Senate bill, introductory No. 690; printed No. 732, entitled: An act to amend the Greater New York charter in relation to the department of licenses in the city of New York.

Date of introduction February 24; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 12; ordered to third reading April 13; passed April 19; reconsidered April 19; lost and tabled April 19; died in Senate.

LAWSON. Senate bill, introductory No. 696; printed No. 747, entitled: An act to amend the Greater New York charter to establishing the office of clerk to the corporation of the city of New York, defining his powers and duties, transferring thereto certain of the powers and duties of the city clerk and abolishing the office of city clerk.

Date of introduction February 25; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 12; died in Senate.

LAWSON. Senate bill, introductory No. 767; printed No. 1891, entitled: An act to amend the penal law, in relation to the application of such law to the playing of certain games.

Date of introduction March 1; referred to Committee on Codes; amended April 10; reported favorably and ordered to third reading April 14; amended April 14; lost and tabled April 18; died in Senate.

LAWSON. Senate bill, introductory No. 835; printed No. 914, entitled: An act to amend the county law, in relation to the powers of boards of supervisors.

Date of introduction March 6; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

LAWSON. Senate bill, introductory No. 924; printed No. 1747, entitled: An act to amend chapter one hundred and twenty-five of the laws of nineteen hundred and six, entitled "An act in relation to illuminating gas in the city of New York and regulating the quality and pressure thereof and the price to consumers

other than said city and providing a penalty for violation," in relation to metering of gas.

Date of introduction March 13; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 24; amended April 10; ordered to third reading April 13; passed April 15. Assembly record.— Received from the Senate April 15; referred to the Committee on Electricity, Gas and Water Supply; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.— Governor April 20; returned from Mayor accepted; chapter No. 612.

LAWSON. Senate bill, introductory No. 925; printed No. 1035, entitled: An act to amend chapter one hundred and twenty-five of the laws of nineteen hundred and six, entitled "An act in relation to illuminating gas in the city of New York and regulating the quality and pressure thereof and the price to consumers other than said city and providing a penalty for violation," in relation to price of gas to consumers in such city.

Date of introduction March 13; referred to Committee on Public Service; died in Senate.

LAWSON. Senate bill, introductory No. 945; printed No. 1064, entitled: An act to amend the tenement house law, in relation to basement and cellar rooms.

Date of introduction March 15; referred to Committee on Affairs of Cities; died in Senate.

LAWSON. Senate bill, introductory No. 1097; printed No. 1674, entitled: An act to amend the labor law, in relation to automatic sprinklers in factory buildings.

Date of introduction March 22; referred to Committee on Labor and Industries; reported favorably and referred to the Committee of the Whole April 6; amended April 6; recommitted April 10; died in Senate.

LAWSON. Senate bill, introductory No. 1387; printed No. 1760, entitled: An act to amend the highway law by repealing

article eleven thereof as amended, and inserting a new article eleven, in relation to motor vehicles and persons operating the same; creating a commissioner of motor vehicles and defining his power and duties.

Date of introduction April 10; referred to Committee on Finance; died in Senate.

LAWSON. Senate bill, introductory No. 1432; printed No. 1849, entitled: An act to amend the liquor tax law, in relation to further restricting the traffic in liquor by reclassifying licenses to be issued thereunder and imposing a tax upon liquors sold in bulk.

Date of introduction April 13; referred to Committee on Taxation and Retrenchment; died in Senate.

LOCKWOOD. Senate bill, introductory No. 227; printed No. 1514, entitled: An act to amend the education law, relative to municipal aid for free public libraries.

Date of introduction January 24; referred to Committee on Public Education; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 3; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Public Education; returned from Assembly dead.

LOCKWOOD. Senate bill, introductory No. 233; printed No. 233, entitled: An act to amend the education law, relative to compulsory education, school census and child welfare in certain cities and districts.

Date of introduction January 24; referred to Committee on Public Education; died in Senate.

LOCKWOOD. Senate bill, introductory No. 234; printed No. 234, entitled: An act to amend the tax law, relative to the exemption from taxation of real property of public libraries.

Date of introduction January 24; referred to Committee on Taxation and Retrenchment; died in Senate.

LOCKWOOD. Senate bill, introductory No. 400; printed No. 416, entitled: An act to amend the education law, relative to school elections in certain cities and in union free school districts having a population of more than five thousand.

Date of introduction February 3; referred to Committee on Public Education; died in Senate.

LOCKWOOD. Senate bill, introductory No. 604; printed No. 636, entitled: An act to amend the education law relative to the employment of medical inspectors.

Date of introduction February 21; referred to Committee on Public Education; died in Senate.

LOCKWOOD. Senate bill, introductory No. 605; printed No. 1515, entitled: An act to amend the education law, in relation to the employment of medical inspectors.

Date of introduction February 21; referred to Committee on Public Education; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 3; Assembly bill, same title, substituted and passed April 5 (A. Pr. No. 1258); chapter No. 182.

LOCKWOOD. Senate bill, introductory No. 649; printed No. 685, entitled: An act to amend the Greater New York charter, in relation to the lien of the bond of the receiver of taxes and the collector of assessments and arrears, and the adjustment of claims thereunder.

Date of introduction February 23; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on third reading, March 29; passed March 29. Record after passage.—Transmitted to Mayor of New York March 30; returned from Mayor accepted April 7; transmitted to Governor April 7; chapter No. 191.

LOCKWOOD. Senate bill, introductory No. 779; printed No. 1494, entitled: An act to amend the Greater New York charter in relation to the admission of nonmatriculated students, the providing of additional educational advantages and the disposition of funds arising therefrom at the College of the City of New York.

Date of introduction March 2; referred to Committee on Affairs of Cities; reported favorably and referred to Committee of the Whole March 29; amended March 29; ordered to third reading April 6; Assembly bill, same title, substituted and passed April 11 (A. Pr. No. 1790); chapter No. 580.

LOCKWOOD. Senate bill, introductory No. 873; printed No. 958, entitled: An act to amend the education law, by providing for a board of education in the several cities of the state.

Date of introduction March 8; referred to Committee on Public Education; died in Senate.

LOCKWOOD. Senate bill, introductory No. 878; printed No. 1685, entitled: An act to amend the Greater New York charter in relation to the construction, alteration, structural changes in, occupancy, use and inspection of buildings and structures in said city, the enforcement of laws and ordinances and rules and regulations relating to said subject, the jurisdiction, powers and duties in relation thereto of departments, boards, bureaus and officers of said city and of the department of labor and the industrial commission of the state of New York, and by creating a board of standards and appeals, and a board of appeals in said city, and repealing certain provisions.

Date of introduction March 9; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended March 29; ordered to third reading April 6; amended April 7; Assembly bill, same title, substituted and passed April 12 (A. Pr. No. 2036); chapter No. 503.

LOCKWOOD. Senate bill, introductory No. 1014; printed No. 1520, entitled: An act to amend the education law, relative to the consenting by the regents of the university to the exercise of educational powers by others than educational institutions incorporated in this state.

Date of introduction March 17; referred to Committee on Public Education; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 3; recommitted April 11; died in Senate.

LOCKWOOD. Senate bill, introductory No. 1015; printed No. 1516, entitled: An act to amend the education law, relative to the day known as Arbor day, and the observance thereof in the public schools of the state.

Date of introduction March 17; referred to Committee on Public Education; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Public Education; committee discharged and ordered to third reading April 7; passed April 7. Record after passage.—Transmitted to Governor April 8; chapter No. 220.

LOCKWOOD. Senate bill, introductory No. 1065; printed No. 1875, entitled: An act to amend the Greater New York charter, and to repeal section ten hundred and ninety-two-a and section ten hundred and ninety-two-b thereof, in relation to the teachers' retirement fund.

Date of introduction March 21; referred to Committee on Affairs of Cities; amended March 27, March 30, April 6, April 11; reported favorably and referred to the Committee of the Whole April 11; ordered to third reading April 13; amended April 14; passed April 20. Assembly record.—Received from the Senate April 20; referred to the Committee on Affairs of Cities; returned from Assembly dead.

LOCKWOOD. Senate bill, introductory No. 1229; printed No. 1840, entitled: An act to amend the education law, relative to the practice of professions in this state by persons licensed in other states and countries and the licensing of such persons by the regents of the university under certain conditions.

Date of introduction March 28; referred to Committee on Public Education; amended April 5; reported favorably and or-

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ordered to third reading April 12; amended April 13; passed April 18; referred to the Committee on Public Education; returned from Assembly dead.

LOCKWOOD. Senate bill, introductory No. 1236; printed No. 1758, entitled: An act to amend the insurance law, in relation to the amount of new business which may be written by life insurance companies annually.

Date of introduction March 28; referred to Committee on Insurance; reported favorably and ordered to third reading April 6; amended April 6, April 10, April 11; Assembly bill, same title, substituted and passed April 13 (A. Pr. No. 2026); chapter No. 360.

LOCKWOOD. Senate bill, introductory No. 1237; printed No. 1435, entitled: An act to amend the New York city municipal court code, in relation to issue of execution and marshal fees.

Date of introduction March 28; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 13; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Affairs of Cities; returned from Assembly dead.

LOCKWOOD. Senate bill, introductory No. 1259; printed No. 1458, entitled: An act to amend the code of civil procedure in relation to the disposition of the real property of a decedent for the satisfaction of charges against the same.

Date of introduction March 29; referred to Committee on Codes; died in Senate.

LOCKWOOD. Senate bill, introductory No. 1260; printed No. 1459, entitled: An act to amend the labor law, in relation to the bureau of employment, and making an appropriation therefor.

Date of introduction March 29; referred to Committee on Finance; died in Senate.

LOCKWOOD. Senate bill, introductory No. 1261; printed No. 1460, entitled: An act to amend the Greater New York charter, in relation to the bureaus in the department of finance.

Date of introduction March 29; referred to Committee on Affairs of Cities; died in Senate.

LOCKWOOD. Senate bill, introductory No. 1338; printed No. 1684, entitled: An act to amend the education law, in relation to state normal schools.

Date of introduction April 6; referred to Committee on Public Education; amended April 7; reported favorably and ordered to third reading April 11; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Public Education; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 315.

LOCKWOOD. Senate bill, introductory No. 1367; printed No. 1698, entitled: An act making an appropriation for the payment of salaries of teachers in the normal schools and in the New York State Normal College.

Date of introduction April 8; referred to Committee on Finance; died in Senate.

LOCKWOOD. Senate bill, introductory No. 1373; printed No. 1704, entitled: An act to amend the judiciary law, in relation to the appointment and compensation of a confidential opinion stenographer for the appellate term of the supreme court in the second judicial department.

Date of introduction April 8; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 377.

LOCKWOOD. Senate bill, introductory No. 1374; printed No. 1705, entitled: An act to amend the tenement house law, in relation to stables on the same lots with tenement houses.

Date of introduction April 8; referred to Committee on Affairs of Cities; reported favorably and ordered to third read-

ing April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 318.

MARSHALL. Senate bill, introductory No. 9; printed No. 9, entitled: An act for the relief of Charles R. Juen, a former member of the national guard of this state.

Date of introduction January 5; referred to Committee on Military Affairs; reported favorably and referred to the Committee of the Whole March 24; Assembly bill, same title, substituted March 28; passed March 29 (A. Pr. No. 14); vetoed.

MARSHALL. Senate bill, introductory No. 192; printed No. 192, entitled: An act to provide for the improvement of state property in the village of Malone, known as Arsenal Green, and making an appropriation therefor.

Date of introduction January 19; referred to Committee on Finance; reported favorably and ordered to third reading April 14; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means: returned from Assembly dead.

MARSHALL. Senate bill, introductory No. 237; printed No. 364, entitled: An act to amend the judiciary law, in relation to the compensation of attendants of appellate division in the third department.

Date of introduction January 24; referred to Committee on the Judiciary; amended January 31; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading February 24; passed February 28. Assembly record.—Received from the Senate March 1; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 427.

MARSHALL. Senate bill, introductory No. 408; printed No. 424, entitled: An act to amend the banking law, in relation to

borrowing of money by savings and loan associations and the lending of money and issuing of bonds by the land bank of the state of New York.

Date of introduction February 3; referred to Committee on Banks; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Banks; reported favorably and ordered to second reading March 23; ordered to third reading March 27; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 139.

MARSHALL. Senate bill, introductory No. 701; printed No. 752, entitled: An act to amend the conservation law, in relation to trout.

Date of introduction February 25; referred to Committee on Conservation; died in Senate.

MARSHALL. Senate bill, introductory No. 702; printed No. 753, entitled: An act to amend the banking law, with reference to declaration of dividends by savings banks.

Date of introduction February 25; referred to Committee on Banks; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Banks; returned from Assembly dead.

MARSHALL. Senate bill, introductory No. 703; printed No. 754, entitled: An act to amend the banking law, in relation to regulations and restrictions as to repayment of deposits.

Date of introduction February 25; referred to Committee on Banks; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Banks; reported favorably and ordered to second reading March 23; ordered to third reading March 29; passed March 30. Record after passage.—Transmitted to Governor March 31; chapter No. 164.

MARSHALL. Senate bill, introductory No. 704; printed No. 1097, entitled: An act to amend the village law, in relation to the establishment of publicity funds and to raise money by taxation therefor.

Date of introduction February 25; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 15; amended March 15; ordered to third reading March 21; Assembly bill, same title, substituted and passed March 23 (A. Pr. No. 1043); chapter No. 108.

MARSHALL. Senate bill, introductory No. 858; printed No. 943, entitled: An act to amend chapter eighty-seven of the laws of eighteen hundred and ninety-three, entitled "An act to amend chapter three hundred and thirty-five of the laws of eighteen hundred and sixty-eight, entitled 'An act to incorporate the city of Ogdensburg,' and the acts amending the same," in relation to time of completing and filing the tax roll.

Date of introduction March 8; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Mayor of Ogdensburg April 14; returned from Mayor accepted April 20; transmitted to Governor April 20; chapter No. 304.

MARSHALL. Senate bill, introductory No. 859; printed No. 944, entitled: An act to amend the public service commissions law, in relation to determining what telephone corporations are subject to the jurisdiction of the commission.

Date of introduction March 8; referred to Committee on Public Service; died in Senate.

MARSHALL. Senate bill, introductory No. 860; printed No. 945, entitled: An act to repeal chapter one hundred and twenty-seven of the laws of eighteen hundred and sixty-six, entitled "An act relative to the collection of taxes in the town of Oswegatchie, in the county of Saint Lawrence."

Date of introduction March 8; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; chapter No. 274.

MARSHALL. Senate bill, introductory No. 907; printed No. 1017, entitled: An act to amend the county law, in relation to the recording of bonds and undertakings executed by corporations.

Date of introduction March 13; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Internal Affairs; returned from Assembly dead.

MARSHALL. Senate bill, introductory No. 1022; printed No. 1154, entitled: An act to amend the banking law, in relation to investments by savings banks.

Date of introduction March 17; referred to Committee on Banks; reported favorably and ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Banks; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 363.

MARSHALL. Senate bill, introductory No. 1128; printed No. 1286, entitled: An act to amend the banking law, in relation to investment companies.

Date of introduction March 23; referred to Committee on Banks; reported favorably and ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Banks; committee discharged and substituted for Assembly bill, same title, on third

reading. April 13: passed April 13. Record after passage.—Transmitted to Governor April 14; not signed by Governor.

MARSHALL. Senate bill, introductory No. 1129; printed No. 1287, entitled: An act to amend the banking law, in relation to powers of investment companies.

Date of introduction March 23; referred to Committee on Banks; reported favorably and ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Banks; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; chapter No. 247.

MARSHALL. Senate bill, introductory No. 1130; printed No. 1288, entitled: An act to amend chapter eighty-seven of the laws of eighteen hundred and ninety-three, entitled "An act to amend chapter three hundred and thirty-five of the laws of eighteen hundred and sixty-eight, entitled 'An act to incorporate the city of Ogdensburg' and the acts amending the same," in relation to the sprinkling of streets and the assessment therefor.

Date of introduction March 23; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 6; Assembly bill, same title, substituted April 10; passed April 11 (A. Pr. No. 1650); chapter No. 285.

MARSHALL. Senate bill, introductory No. 1293; printed No. 1542, entitled: An act to amend the public health law, in relation to the care and maintenance of carriers of disease.

Date of introduction March 31; referred to Committee on Public Health; reported favorably and ordered to third reading April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Public Health; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 371.

MARSHALL. Senate bill, introductory No. 1302; printed No. 1554, entitled: An act making an appropriation for improving the channel of Saranac river.

Date of introduction April 1; referred to Committee on Finance; died in Senate.

MILLS. Senate bill, introductory No. 165; printed No. 165; Assembly printed No. 1968, entitled: An act to amend the penal law, so as to prohibit certain uses of information respecting lists of stockholders of corporations.

Date of introduction January 18; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 1; ordered to third reading March 6; passed March 9. Assembly record.—Received from the Senate March 10; referred to the Committee on Codes; reported favorably and ordered to second reading March 27; ordered to third reading March 29; amended March 30; recommitted April 6; reconsidered and passed April 6. In Senate.—Assembly amendments concurred in April 10. Record after passage.—Transmitted to Governor April 12; vetoed.

MILLS. Senate bill, introductory No. 170; printed No. 528, entitled: An act to incorporate the Andrew Freedman Home.

Date of introduction January 18; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; amended February 9; recommitted February 22; ordered to third reading February 23; passed February 28. Assembly record.—Received from the Senate March 1; ordered to third reading March 1; passed March 1. Record after passage.—Transmitted to Governor March 2; chapter No. 27.

MILLS. Senate bill, introductory No. 235; printed No. 1331, entitled: An act to amend the penal law, in relation to prohibiting practice of law by corporations and voluntary associations.

Date of introduction January 24; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 23; amended March 23; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Codes; reported favorably and ordered to third reading April 7; passed April 7. Record after passage.—Transmitted to Governor April 7; chapter No. 254.

MILLS. Senate bill, introductory No. 236; printed No. 236. entitled: An act to establish a system of insurance to provide benefits for employees in case of death, sickness and accident, not covered by workmen's compensation.

Date of introduction January 24; referred to Committee on the Judiciary; died in Senate.

MILLS. Senate bill, introductory No. 239; printed No. 239, entitled: An act to amend the membership corporations law, in relation to maximum number of directors.

Date of introduction January 24; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; ordered to third reading February 21; passed February 23; reconsidered February 23; Assembly bill, same title, substituted and passed February 23 (A. Pr. No. 271); chapter No. 19.

MILLS. Senate bill, introductory No. 261; printed No. 261, entitled: An act to amend the finance law, in relation to the preparation by the governor of an annual estimate of necessary appropriations and other financial statements for the information of the legislature; and to amend the legislative law, in relation to the consideration and enactment of the annual appropriation bill.

Date of introduction January 26; referred to Committee on Finance; died in Senate.

MILLS. Senate bill, introductory No. 332; printed No. 336, entitled: An act creating a commission to negotiate for the transfer of the quarantine establishment to the United States with power to effectuate such transfer, and if such transfer be effectuated, abolishing the office of health officer for the port of New York and ceding jurisdiction over the quarantine establishment to the United States.

Date of introduction January 31; referred to Committee on Finance; died in Senate.

MILLS. Senate bill, introductory No. 351; printed No. 344, entitled: An act to amend the penal law, in relation to punishment for misdemeanors.

Date of introduction January 31; referred to Committee on Codes; amended March 1; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 23; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Codes; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; not signed by Governor.

MILLS. Senate bill, introductory No. 439; printed No. 458, entitled: An act to amend the tax law, in relation to equalization.

Date of introduction February 7; referred to Committee on Taxation and Retrenchment; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 20. Assembly record.—Received from the Senate March 21; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to second reading March 24; ordered to third reading March 27; passed April 5. Record after passage.—Transmitted to Governor April 7; chapter No. 249.

MILLS. Senate bill, introductory No. 465; printed No. 485, entitled: An act to amend the state finance law, in relation to the working capital fund of the state commission for the blind.

Date of introduction February 8; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading February 24; passed February 28. Assembly record.—Received from the Senate March 1; referred to the Committee on the Judiciary; reported favorably and ordered to second reading March 30; ordered to third reading March 31; passed April 3. Record after passage.—Transmitted to Governor April 5; chapter No. 223.

MILLS. Senate bill, introductory No. 466; printed No. 486, entitled: An act to amend the religious corporations law, in relation to trustees and officers in case of conveyance of real property.

Date of introduction February 8; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading March 1;

passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on the Judiciary; returned from Assembly dead.

MILLS. Senate bill, introductory No. 479; printed No. 501. entitled: An act to amend the Greater New York charter, in relation to the creation of a department of markets and prescribing its powers and duties.

Date of introduction February 9; referred to Committee on Affairs of Cities; died in Senate.

MILLS. Senate bill, introductory No. 480; printed No. 796, entitled: An act to amend the Greater New York charter, in relation to authorizing the city of New York to acquire more land and property than is needed for actual construction in laying out, widening, extending or relocating parks, public places, highways or streets.

Date of introduction February 9; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 23; amended February 28; Assembly bill, same title, substituted March 9; passed March 14 (A. Pr. No. 1061); chapter No. 112.

MILLS. Senate bill, introductory No. 546; printed No. 575; Assembly printed No. 2073, entitled: An act to amend the tax law, in relation to taxable transfers.

Date of introduction February 14; referred to Committee on Taxation and Retrenchment; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 20. Assembly record.—Received from the Senate March 21; referred to the Committee on the Judiciary; reported favorably and ordered to second reading April 11; amended April 12; ordered to third reading April 17; passed April 17. In Senate.—Assembly amendments concurred in April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 548.

MILLS. Senate bill, introductory No. 547; printed No. 576, entitled: An act to amend the tax law, in relation to imposing a tax upon and with respect to incomes.

Date of introduction February 14; referred to Committee on Taxation and Retrenchment; died in Senate.

MILLS. Senate bill, introductory No. 589; printed No. 621, entitled: An act to amend the Greater New York charter in relation to the time when annual taxes upon real property shall be deemed to be charges or incumbrances.

Date of introduction February 21; ordered to third reading February 21; passed February 28. Assembly record.—Received from the Senate February 28; ordered to third reading February 28; passed February 28. Record after passage.—Transmitted to Mayor of New York February 28; returned from Mayor accepted March 2; transmitted to Governor March 2; chapter No. 17.

MILLS. Senate bill, introductory No. 756; printed No. 814, entitled: An act to amend the Greater New York charter, in relation to the use by persons, associations and corporations of the lands and buildings of Hunter College.

Date of introduction February 29; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 8; ordered to third reading March 13; passed March 15. Assembly record.—Received from the Senate March 20; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on third reading, March 28; passed March 28. Record after passage.—Transmitted to Mayor of New York March 29; returned from Mayor accepted April 7; transmitted to Governor April 7; chapter No. 193.

MILLS. Senate bill, introductory No. 999; printed No. 1128, entitled: An act to amend the lien law, in relation to mortgaging or pledging stocks and bonds as security for a loan.

Date of Introduction March 16; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 11; passed April 11. Record

after passage.—Transmitted to Governor April 13; chapter No. 348.

MILLS. Senate bill, introductory No. 1000; printed No. 1129, entitled: Concurrent resolution of the Senate and Assembly proposing amendments to article twelve of the constitution, relating to cities and villages, so as to regulate legislation concerning them and guarantee to them the right of municipal self-government.

Date of introduction March 16; referred to Committee on the Judiciary; died in Senate.

MILLS. Senate bill, introductory No. 1146; printed No. 1303, entitled: An act to amend chapter five hundred and seventy-nine of the laws of nineteen hundred and fifteen, entitled "An act extending and developing the reformatory and correctional functions of workhouses, penitentiaries and reformatories under the jurisdiction of departments of correction in cities of the first class, providing for the sentence, commitment, parole, conditional discharge and reapprehension of persons committed to such institutions and for the establishment of a parole commission in such cities," generally.

Date of introduction March 23; referred to Committee on Penal Institutions; reported favorably and ordered to third reading April 5; Assembly bill, same title, substituted April 10; passed April 11 (A. Pr. No. 1667); chapter No. 287.

MILLS. Senate bill, introductory No. 1147; printed No. 1587, Assembly printed No. 2083, entitled: An act to amend the inferior criminal courts act of the city of New York, generally.

Date of introduction March 23; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; amended April 3 and 5; passed April 10. Assembly record.—Received from the Senate April 10; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 12; amended April 13; ordered to third reading April 18; passed April 18. In Senate.—Assembly amendments concurred in April 19. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city.

MILLS. Senate bill, introductory No. 1175; printed No. 1348, entitled: An act to amend the election law and the public officers' law, in relation to the appointment and terms of commissioners of elections and the organization of the board of elections in the city of New York.

Date of introduction March 24; referred to Committee on the Judiciary; died in Senate.

MILLS. Senate bill, introductory No. 1176; printed No. 1349, entitled: An act to amend the penal law with respect to crimes against the electoral franchise.

Date of introduction March 24; referred to Committee on Codes; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Codes; returned from Assembly dead.

MILLS. Senate bill, introductory No. 1177; printed No. 1350, entitled: An act to amend the executive law, with respect to the attorney-general and his deputies.

Date of introduction March 24; referred to Committee on Finance; reported by Committee on Rules and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 359.

MILLS. Senate bill, introductory No. 1178; printed No. 1365, entitled: An act to amend the election law, generally.

Date of introduction March 24; referred to Committee on the Judiciary; died in Senate.

MILLS. Senate bill, introductory No. 1206; printed No. 1472; Assembly printed No. 2119, entitled: An act to amend the Greater New York charter, in relation to the purchase of supplies and the establishment of a department of purchase.

Date of introduction March 27; referred to Committee on Affairs of Cities; reported by Committee on Rules and ordered

to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 17; amended April 18; returned from Assembly dead.

MILLS. Senate bill, introductory No. 1228; printed No. 1670, entitled: An act to authorize the board of estimate and apportionment of the city of New York to allot certain lands to the International Garden Club for the establishment thereon of a horticultural garden.

Date of introduction March 28; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 6; amended April 6; ordered to third reading April 13; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Affairs of Cities; reported favorable and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 498.

MILLS. Senate bill, introductory No. 1240; printed No. 1712, entitled: An act to amend the tax law, in relation to a tax on secured debts.

Date of introduction March 28; ordered to third reading and referred to Committee on Taxation and Retrenchment; reported favorably and restored to third reading April 7; amended April 7, April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 261.

MILLS. Senate bill, introductory No. 1245; printed No. 1444, entitled: An act to amend the election law, in relation to party organization and designations for the primary.

Date of introduction March 29; referred to Committee on the Judiciary; died in Senate.

MILLS. Senate bill, introductory No. 1252; printed No. 1451, entitled: An act to amend the Greater New York charter by transferring jurisdiction over all institutions for the care and custody of criminals and misdemeanants, and over all criminal prisoners, within the county of Richmond to the department of correction, to designate the sheriff's jail of New York county as the sheriff's jail for Richmond county also and to provide for the care and custody of civil prisoners from Richmond county within the jail so designated.

Date of introduction March 29; referred to Committee on Affairs of Cities; died in Senate.

MILLS. Senate bill, introductory No. 1253; printed No. 1452, entitled: An act to amend the Greater New York charter, in relation to the sheriff's jail for Queens county and to designate the sheriff's jail for Kings county as the sheriff's jail for Queens county also.

Date of introduction March 29; referred to Committee on Affairs of Cities; died in Senate.

MILLS. Senate bill, introductory No. 1254; printed No. 1453, entitled: An act to amend the prison law, in relation to jail physicians in counties within the city of New York.

Date of introduction March 29; referred to Committee on Affairs of Cities; died in Senate.

MILLS. Senate bill, introductory No. 1255; printed No. 1454, entitled: An act to amend the Greater New York charter by transferring jurisdiction over all institutions for the care and custody of criminals and misdemeanants, and over all criminal prisoners, within the county of the Bronx to the department of correction and to provide for the care and custody of civil prisoners within such county.

Date of introduction March 29; referred to Committee on Affairs of Cities; died in Senate.

MILLS. Senate bill, introductory No. 1256; printed No. 1455, entitled: An act to amend the Greater New York charter, in relation to the sheriff's jail in the county of Kings.

Date of introduction March 29; referred to Committee on Affairs of Cities; died in Senate.

MILLS. Senate bill, introductory No. 1257; printed No. 1456, entitled: An act to amend the labor law, in relation to automatic sprinklers in factory buildings.

Date of introduction March 29; referred to Committee on Labor Industries; died in Senate.

MILLS. Senate bill, introductory No. 1262; printed No. 1690, entitled: An act to amend the tax law, in relation to preventing the evasion of taxable transfers by alleged nonresidents.

Date of introduction March 29; referred to Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 7; amended April 7; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 17; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 551.

MILLS. Senate bill, introductory No. 1263; printed No. 1462, entitled: An act to establish a commission to investigate sickness and accidents among employees in the state of New York and make an appropriation therefor.

Date of introduction March 29; referred to Committee on Finance; reported favorably and ordered to third reading April 10; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Ways and Means; returned from Assembly dead.

MILLS. Senate bill, introductory No. 1265; printed No. 1464, entitled: An act to amend the Greater New York charter, in relation to the payment of the pensions of the retired public school teachers.

Date of introduction March 29; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Affairs

of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 613.

MILLS. Senate bill, introductory No. 1269; printed No. 1650, entitled: An act to amend the conservation law, in relation to the importation of certain mammals and birds from without the United States.

Date of introduction March 29; referred to Committee on Conservation; reported favorably and ordered to third reading April 6; amended April 6; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Conservation; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 402.

MILLS. Senate bill, introductory No. 1285; printed No. 1868, entitled: An act to amend the tax law, in relation to the franchise tax on corporations.

Date of introduction March 30; ordered to third reading and referred to Committee on Taxation and Retrenchment; reported favorably and restored to third reading April 10; amended April 10, April 13; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 333.

MILLS. Senate bill, introductory No. 1349; printed No. 1876, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section eighteen of article six of the constitution, in relation to children's courts and courts of domestic relations.

Date of introduction April 6; referred to Committee on the Judiciary; amended April 14; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; returned from Assembly dead.

MILLS. Senate bill, introductory No. 1391; printed No. 1755, entitled: An act making provision for issuing bonds to the amount of not to exceed two million five hundred thousand dollars in addition to bonds heretofore authorized by the provisions of chapter three hundred and sixty-three of the laws of nineteen hundred and ten, for the use of the commissioners of the Palisades Interstate park in the extension and improvement of the Palisades Interstate park, as from time to time such park may exist, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and sixteen.

Date of introduction April 10; ordered to third reading and referred to Committee on Finance; died in Senate.

MILLS. Senate bill, introductory No. 1411; printed No. 1798, entitled: An act to amend the election law, in relation to election officers.

Date of introduction April 12; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole April 18; died in Senate.

MILLS. Senate bill, introductory No. 1412; printed No. 1799, entitled: An act to amend the tax law, in relation to taxable transfers of non-residents.

Date of introduction April 12; ordered to third reading and referred to Committee on Taxation and Retrenchment; died in Senate.

MILLS. Senate bill, introductory No. 1436; printed No. 1853, entitled: An act making an appropriation for the joint legislative committee on taxation.

Date of introduction April 13; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; returned from Assembly dead.

MILLS. Senate bill, introductory No. 1458; printed No. 1904, entitled: An act making an appropriation for the payment of

the expenses of Alfred D. Bell incurred in the contest by Silas B. Axtell for his seat as member of the assembly from the twenty-ninth district of New York.

Date of introduction April 15; referred to Committee on Finance; reported favorably and ordered to third reading April 17; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Ways and Means; returned from Assembly dead.

MILLS. Senate bill, introductory No. 1465; printed No. 1911, entitled: An act to authorize and empower the city of New York to acquire a site beyond its territorial limits for use as a farm colony for women sentenced to institutions under the jurisdiction of the department of correction of the city of New York.

Date of introduction April 17; ordered to third reading April 17; passed April 20. Assembly record.—Received from the Senate April 20; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 510.

MILLS. Senate bill, introductory No. 1472; printed No. 1922, entitled: An act to amend chapter eight hundred and ninety of the laws of nineteen hundred and eleven, entitled "An act dividing the state into congressional districts," in relation to changing the boundary lines of the fifteenth, sixteenth, seventeenth and eighteenth congressional districts.

Date of introduction April 18; referred to Special Committee on Apportionment; died in Senate.

MILLS. Senate bill, introductory No. 1473; printed No. 1923, entitled: An act to amend the Greater New York charter, in relation to aldermanic districts, the division of the city into the same and the boundaries thereof, and to districts for home rule and local improvements.

Date of introduction April 18; ordered to third reading and referred to Special Committee on Apportionment; reported favor-

ably and restored to third reading April 18; passed April 20: emergency message. Assembly record.—Received from the Senate April 20; ordered to third reading April 20; passed April 20: emergency message. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 540.

MULLAN. Senate bill, introductory No. 215; printed No. 215, entitled: An act to amend the judiciary law, in relation to authorizing the publication of an annotated edition or editions of the court reports without cost to the state.

Date of introduction January 24; referred to Committee on the Judiciary; died in Senate.

MULLAN. Senate bill, introductory No. 216; printed No. 216, entitled: An act to amend the labor law, in relation to one day of rest in seven.

Date of introduction January 24; referred to Committee on Labor and Industries; reported favorably and ordered to third reading April 6; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Labor and Industries; reported favorably and ordered to second reading April 17; ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

MULLAN. Senate bill, introductory No. 262; printed No. 262, entitled: An act to amend the election law, in reference to the creation and alteration of election districts and providing for primaries therein when town, ward or city lines have been altered.

Date of introduction January 26; referred to Committee on the Judiciary; died in Senate.

MULLAN. Senate bill, introductory No. 383; printed No. 1523, entitled: An act to amend the general business law, in relation to the appointment of weighmasters by the state superintendent of weights and measures.

Date of introduction February 2; referred to Committee on the Judiciary; reported favorably and referred to the Committee of

the Whole March 27; ordered to third reading March 28; amended March 30; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on the Judiciary; returned from Assembly dead.

MULLAN. Senate bill, introductory No. 386; printed No. 1597, entitled: An act to amend the agricultural law, in relation to fines and penalties for violations of its provisions.

Date of introduction February 2; referred to Committee on Agriculture; amended March 6, March 23; reported favorably and referred to the Committee of the Whole March 23; ordered to third reading March 28; amended March 30, April 5; passed April 10. Assembly record.—Received from the Senate April 10; referred to the Committee on Agriculture; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 20; chapter No. 623.

MULLAN. Senate bill, introductory No. 491; printed No. 513, entitled: An act to amend chapter nine hundred and forty-one of the laws of eighteen hundred and sixty-seven, entitled "An act to amend and consolidate the several acts relating to the charter of the village of Churchville, in the county of Monroe," in relation to limitation of power of trustees to levy village tax.

Date of introduction February 9; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 29; recommitted March 30; died in Senate.

MULLAN. Senate bill, introductory No. 539; printed No. 568, entitled: An act to amend the election law by allowing substituted registration in special cases.

Date of introduction February 14; referred to Committee on the Judiciary; died in Senate.

MULLAN. Senate bill, introductory No. 660; printed No. 696, entitled: An act to amend the election law, in relation to the creation and alteration of election districts in the county of

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 for primaries therein when town, war
 altered.
 February 23; referred to Committee on
 reported favorably and referred to the Committee
 March 27; ordered to third reading March 28;
 March 30. Assembly record.—Received from the Senate
 March 31; referred to the Committee on the Judiciary; returned
 from Assembly dead.

MULLAN. Senate bill, introductory No. 870; printed No. 1527, entitled: An act to amend the public health law, in relation to the practice of chiropractic.

Date of introduction March 8; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; amended April 12; lost April 19; died in Senate.

MULLAN. Senate bill, introductory No. 1066; printed No. 1210, entitled: An act to confer jurisdiction upon the court of claims to hear, audit and determine the amount of damages suffered by reason of change of grade of highways or streets caused by changing the bridges and approaches thereto over the canals pursuant to chapter one hundred and forty-seven of the laws of nineteen hundred and three in connection with the improvement of the Erie, Champlain and Oswego canals and to chapter seven hundred and forty-six of the laws of nineteen hundred and eleven, in connection with furnishing proper terminals and facilities for barge canal traffic.

Date of introduction March 21; referred to Committee on the Judiciary; died in Senate.

MULLAN. Senate bill, introductory No. 1320; printed No. 1592, entitled: An act to amend the railroad law, in relation to when corporate powers of a railroad or street surface railroad shall cease and to provide for the transfer of property thereof.

Date of introduction April 5; ordered to third reading and referred to Committee on the Judiciary; died in Senate.

MULLAN. Senate bill, introductory No. 1321; printed No. 1593, entitled: An act to amend the labor law, in relation to one day of rest in seven.

Date of introduction April 5; referred to Committee on Labor and Industries; died in Senate.

NEWTON. Senate bill, introductory No. 268; printed No. 268, entitled: An act to provide for widening and deepening the channel of the Chemung river and removing obstructions therefrom in and near the city of Corning, and making an appropriation therefor.

Date of introduction January 26; referred to Committee on Finance; died in Senate.

NEWTON. Senate bill, introductory No. 549; printed No. 578, entitled: An act to amend the code of criminal procedure, in relation to extradition of insane persons.

Date of introduction February 14; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 2; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Codes; returned from Assembly dead.

NEWTON. Senate bill, introductory No. 606; printed No. 638, entitled: An act to provide for the removal of the monument to the First New York Dragoons, now located in the town of Portage, in the county of Livingston, to a point in Wyoming county within Letchworth park, and making an appropriation therefor.

Date of introduction February 21; referred to Committee on Finance; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; returned from Assembly dead.

NEWTON. Senate bill, introductory No. 671; printed No. 707; Assembly printed No. 2006, entitled: An act to amend the code of civil procedure, in relation to an action to annul a void or voidable marriage.

Date of introduction February 23; referred to Committee on Codes; reported favorably and referred to the Committee of the

Whole March 9; ordered to third reading March 13; passed March 15. Assembly record.—Received from the Senate March 20; referred to the Committee on Codes; reported favorably and ordered to second reading March 27; ordered to third reading March 29; amended April 5; passed April 13. In Senate.—Assembly amendments concurred in April 14. Record after passage.—Transmitted to Governor April 18; chapter No. 605.

NEWTON. Senate bill, introductory No. 675; printed No. 718, entitled: An act to confer jurisdiction on the court of claims to make a determination changing the terms of contracts with the state, where the cost of carrying out the contract was increased by premiums for workmen's compensation.

Date of introduction February 24; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Claims; returned from Assembly dead.

NEWTON. Senate bill, introductory No. 768; printed No. 826, entitled: An act to confer jurisdiction on the court of claims to hear, audit and determine the claims of contractors with the state, where the cost of carrying out the contracts was increased by premiums for workmen's compensation.

Date of introduction March 1; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 19; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Claims; returned from Assembly dead.

NEWTON. Senate bill, introductory No. 780; printed No. 1332, entitled: An act to amend the penal law, in relation to fraudulently obtaining property, or the use of property.

Date of introduction March 2; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 23; amended March 23; ordered to third reading March 28; passed March 30. Assembly record.—Received from the Senate March 31; referred to the Committee on Codes; reported

favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 367.

NEWTON. Senate bill, introductory No. 833; printed No. 912, entitled: An act authorizing the city of Corning to borrow money to pay current indebtedness and deficits in city funds.

Date of introduction March 6; referred to Committee on Affairs of Cities; died in Senate.

NEWTON. Senate bill, introductory No. 879; printed No. 974, entitled: An act to amend the penal law, in relation to trespassing on railroads and riding on railroad cars without permission.

Date of introduction March 9; referred to Committee on Codes; died in Senate.

NEWTON. Senate bill, introductory No. 880; printed No. 975, entitled: An act to amend the railroad law, in relation to riding upon railway cars, boarding cars in motion, obstructing passage of car and trespassing upon railway property.

Date of introduction March 9; referred to Committee on Codes; died in Senate.

NEWTON. Senate bill, introductory No. 881; printed No. 976, entitled: An act to amend chapter two hundred and eighty-eight of the laws of nineteen hundred and six, entitled "An act to revise the charter of the city of Hornellsville, and to change the name thereof," generally.

Date of introduction March 9; referred to Committee on Affairs of Cities; died in Senate.

NEWTON. Senate bill, introductory No. 934; printed No. 1046, entitled: An act to amend the town law, in relation to appointment of deputy town clerks.

Date of introduction March 14; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

NEWTON. Senate bill, introductory No. 938; printed No. 1050, entitled: An act to amend chapter two hundred of the

laws of nineteen hundred and three, entitled "An act to make the office of county clerk of Livingston county a salaried office, and regulating the management of said office," in relation to the amount of fees to be collected by such clerk for official services.

Date of introduction March 14; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

NEWTON. Senate bill, introductory No. 939; printed No. 1368, entitled: An act to amend the state charities law, in relation to exchange of farm products and disposal of personal property of patients and deceased patients.

Date of introduction March 14; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; amended March 24; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Charitable and Religious Societies; reported favorably and ordered to third reading April 7; passed April 7. Record after passage.—Transmitted to Governor April 8; not signed by Governor.

NEWTON. Senate bill, introductory No. 1170; printed No. 1327, entitled: An act to amend the code of civil procedure, in relation to limitation of actions for dower.

Date of introduction March 23; referred to Committee on Codes; died in Senate.

NEWTON. Senate bill, introductory No. 1331; printed No. 1844, entitled: An act to amend the penal law, relative to buying or receiving stolen or wrongfully acquired second-hand books or other library material.

Date of introduction April 5; referred to Committee on Codes; reported favorably and ordered to third reading April 13; amended April 13; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Codes; reported favorably and ordered to second reading April 20; recommitted April 20; returned from Assembly dead.

NEWTON. Senate bill, introductory No. 1355; printed No. 1664, entitled: An act making an appropriation to pay the expenses incurred by Alvah H. Doty in the examination and investigation of the management and affairs of the office of the health officer of the port of New York.

Date of introduction April 6; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 11; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 20; chapter No. 631.

NEWTON. Senate bill, introductory No. 1417; printed No. 1804, entitled: An act to confer jurisdiction on the court of claims to hear, try and determine the claim of Madge Acker against the state for damages alleged to have been sustained by her on January twenty-third, nineteen hundred and fifteen, while an employee at the Craig Colony for Epileptics at Sonyea, and to render judgment therefor.

Date of introduction April 12; ordered to third reading April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Claims; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

NEWTON. Senate bill, introductory No. 1438; printed No. 1855, entitled: An act to amend the code of civil procedure, in relation to expediting the work of the court of claims.

Date of introduction April 13; ordered to third reading April 13; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Codes; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 343.

NORTON. Senate bill, introductory No. 4; printed No. 4, entitled: An act making an appropriation, payable from the

proceeds of bonds authorized by chapter five hundred and seventy of the laws of nineteen hundred and fifteen, for the improvement of canals and to reimburse the general fund for advances for such improvement.

Date of introduction January 5; referred to Committee on Finance; died in Senate.

NORTON. Senate bill, introductory No. 125; printed No. 125, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article seven of the constitution, in relation to highways.

Date of introduction January 11; referred to Committee on the Judiciary; died in Senate.

NORTON. Senate bill, introductory No. 242; printed No. 242, entitled: An act to amend the highway law, in relation to definition of a highway.

Date of introduction January 25; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

NORTON. Senate bill, introductory No. 243; printed No. 243, entitled: An act to amend the education law, in relation to the display of the United States flag in schoolrooms.

Date of introduction January 25; referred to Committee on Public Education; died in Senate.

NORTON. Senate bill, introductory No. 244; printed No. 244, entitled: An act to amend the education law, in relation to instruction in typewriting, stenography and bookkeeping.

Date of introduction January 25; referred to Committee on Public Education; died in Senate.

NORTON. Senate bill, introductory No. 263; printed No. 263, entitled: An act to authorize the superintendent of public works to provide towing facilities on completed sections and portions of the barge canal system of the state, and making an appropriation therefor.

Date of introduction January 26; referred to Committee on Finance; died in Senate.

NORTON. Senate bill, introductory No. 349; printed No. 352, entitled: An act to amend the act incorporating the village of Cobleskill, Schoharie county.

Date of introduction January 31; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 21; ordered to third reading February 24; passed February 28. Assembly record.—Received from the Senate February 29; ordered to third reading February 29; passed February 29. Record after passage.—Transmitted to Governor March 1; chapter No. 26.

NORTON. Senate bill, introductory No. 448; printed No. 970, entitled: An act to provide for the paving of Guy Park avenue in the city of Amsterdam from Jackson street to the western terminus of Guy Park avenue and to provide for the issuing of bonds in aid of such construction.

Date of introduction February 7; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 8; amended March 8; ordered to third reading March 13; Assembly bill, same title, substituted March 16; passed March 20 (A. Pr. No. 1249); chapter No. 206.

NORTON. Senate bill, introductory No. 497; printed No. 519, entitled: An act to increase the number of justices of the supreme court in the third judicial district, and to provide for an additional justice therein.

Date of introduction February 9; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 20; chapter No. 591.

NORTON. Senate bill, introductory No. 508; printed No. 537, entitled: An act to amend the public health law, in relation to licenses to practice veterinary medicine.

Date of introduction February 10; referred to Committee on Public Health; reported favorably and referred to the Committee of the Whole March 7; Assembly bill, same title, substituted March 9; passed April 19 (S. Pr. No. 1867); chapter No. 505.

NORTON. Senate bill, introductory No. 536; printed No. 565, entitled: An act to empower the town board of the town of Glenville, Schenectady county, New York, to release, return and surrender to the state its privilege, franchise and right to maintain and operate as a toll bridge the so-called Freeman's bridge, spanning the Mohawk river between the said town and the city of Schenectady, New York, and on terms to be agreed upon with the canal board, to release the state from claims growing out of the appropriation by the state of the remains of said bridge.

Date of introduction February 14; referred to Committee on Canals; reported favorably and referred to the Committee of the Whole March 2; ordered to third reading March 6; Assembly bill, same title, substituted March 7; passed March 9 (A. Pr. No. 757); chapter No. 68.

NORTON. Senate bill, introductory No. 558; printed No. 588, entitled: An act to amend chapter seven hundred and twenty-four of the laws of nineteen hundred and five, entitled "An act to provide for an additional supply of pure and wholesome water for the city of New York; and for the acquisition of lands or interests therein, and for the construction of the necessary reservoirs, dams, aqueducts, filters and other appurtenances for that purpose; and for the appointment of a commission with the powers and duties necessary and proper to attain these objects," in relation to right to damages for decreased value to established business in the counties of Schoharie and Delaware.

Date of introduction February 16; referred to Committee on Affairs of Cities; died in Senate.

NORTON. Senate bill, introductory No. 609; printed No. 641, entitled: An act to amend chapter two hundred and forty-two of the laws of nineteen hundred and eleven, entitled "An act to amend, consolidate and revise the several acts relative to the

city of Amsterdam," in relation to the maximum amount of the annual city tax levy.

Date of introduction February 21; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on third reading, March 15; passed March 15. Record after passage.—Transmitted to Mayor of Amsterdam March 16; returned from Mayor accepted March 24; transmitted to Governor March 24; chapter No. 78.

NORTON. Senate bill, introductory No. 734; printed No. 787, entitled: An act to amend the second class cities law, in relation to appointment of commissioners of deeds.

Date of introduction February 28; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; recommitted April 14; died in Senate.

NORTON. Senate bill, introductory No. 752; printed No. 810, entitled: An act to amend chapter seven hundred and forty-six of the laws of nineteen hundred and eleven, entitled: "An act making provision for issuing bonds to the amount of not to exceed nineteen million eight hundred thousand dollars for the purpose of furnishing proper terminals and facilities for Barge canal traffic, including the acquisition and interchange of property therefor, with a view to improving and fostering the commerce of the state, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and eleven," authorizing the granting of permits in connection with lands appropriated under such act.

Date of introduction February 29; referred to Committee on Canals; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4;

referred to the Committee on Ways and Means; returned from Assembly dead.

NORTON. Senate bill, introductory No. 805; printed No. 884, entitled: An act to amend the real property law, in relation to the registration of real estate brokers through a bureau in the office of the secretary of state, and making an appropriation therefor.

Date of introduction March 6; referred to Committee on Finance; died in Senate.

NORTON. Senate bill, introductory No. 872; printed No. 957, entitled: An act to amend the highway law, in relation to the bonds of contractors.

Date of introduction March 8; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Internal Affairs; returned from Assembly dead.

NORTON. Senate bill, introductory No. 941; printed No. 1053, entitled: An act to amend the religious corporations law, in relation to property of extinct churches.

Date of introduction March 14; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; chapter No. 485.

NORTON. Senate bill, introductory No. 976; printed No. 1106, entitled: An act to amend the education law, in relation to medical inspection of pupils in the public schools of the state.

Date of introduction March 16; referred to Committee on Public Education; died in Senate.

NORTON. Senate bill, introductory No. 977; printed No. 1107, entitled: An act to amend the general business law, in relation to prohibiting discrimination in the sale of commodities; combinations intended to destroy the business of selling commodities, and providing penalties for violation.

. Date of introduction March 16; referred to Committee on the Judiciary; died in Senate.

NORTON. Senate bill, introductory No. 1016; printed No. 1823, entitled: An act to amend chapter seven hundred and twenty-four of the laws of nineteen hundred and five, entitled "An act to provide for an additional supply of pure and wholesome water for the city of New York; and for the acquisition of lands or interest therein, and for the construction of the necessary reservoirs, dams, aqueducts, filters, and other appurtenances for that purpose; and for the appointment of a commission with the powers and duties necessary and proper to attain these objects," generally.

Date of introduction March 17; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole April 5; amended April 5; ordered to third reading April 12; amended April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Conservation; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 527.

NORTON. Senate bill, introductory No. 1157; printed No. 1314, entitled: An act to amend chapter four hundred and eighty-one of the laws of nineteen hundred and eight, entitled "An act to provide for a department of public instruction in the city of Schenectady," in relation to appointment of a woman commissioner of education.

Date of introduction March 23; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate

April 4; referred to the Committee on Affairs of Cities; committee discharged and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Mayor of Schenectady April 7; returned from Mayor accepted April 17; transmitted to Governor April 18; chapter No. 271.

NORTON. Senate bill, introductory No. 1246; printed No. 1445, entitled: An act to amend the code of civil procedure, in relation to costs in justice's court.

Date of introduction March 29; referred to Committee on Codes; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Codes; returned from Assembly dead.

NORTON. Senate bill, introductory No. 1273; printed No. 1497, entitled: An act providing for bridging the Mohawk river and the Barge canal and for establishing and constructing approaches thereto between State street at Washington avenue in the city of Schenectady and Mohawk avenue in the village of Scotia, and apportioning the expense thereof to the state of New York, the city of Schenectady, the county of Schenectady and the village of Scotia in said county.

Date of introduction March 30; referred to Committee on Finance; died in Senate.

NORTON. Senate bill, introductory No. 1342; printed No. 1637, entitled: An act to amend the agricultural law, in relation to the manufacture and sale of imitation butter.

Date of introduction April 6; referred to Committee on Agriculture; died in Senate.

NORTON. Senate bill, introductory No. 1393; printed No. 1757, entitled: An act to amend the code of criminal procedure, in relation to fees of constables.

Date of introduction April 10; ordered to third reading and referred to Committee on Codes; died in Senate.

NORTON. Senate bill, introductory No. 1439; printed No. 1856, entitled: An act to amend chapter four hundred and eighty-one of the laws of nineteen hundred and eight, entitled "An act to provide for a department of public instruction in the city of Schenectady," in relation to medical inspectors.

Date of introduction April 13; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of Schenectady April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 488.

NORTON. Senate bill, introductory No. 1461; printed No. 1907, entitled: An act to create a commission to investigate and report upon the conditions relative to the construction of a highway bridge over the Mohawk river and the Barge canal between the city of Schenectady and the village of Scotia and making an appropriation therefor.

Date of introduction April 15; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 17; passed April 19. Assembly record.—Received from the Senate April 20; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of Schenectady April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 603.

PATTEN. Senate bill, introductory No. 120; printed No. 120, entitled: An act to release to Emma Nehlsen, all the right, title and interest of the people of the State of New York, in and to certain real estate in the borough and county of Queens, city and state of New York.

Date of introduction January 10; referred to Committee on the Judiciary; died in Senate.

PATTEN. Senate bill, introductory No. 131; printed No. 131, entitled: An act to amend the code of criminal procedure in relation to recovering on forfeited bail in the county of Queens.

Date of introduction January 12; referred to Committee on Codes; died in Senate.

PATTEN. Senate bill, introductory No. 264; printed No. 264, entitled: An act to amend chapter four hundred and sixteen of the laws of eighteen hundred and seventy-one, entitled "An act to incorporate the Saint George's Brotherhood, of the town of Flushing, Queens county," generally.

Date of introduction January 26; referred to Committee on the Judiciary; died in Senate.

PATTEN. Senate bill, introductory No. 297; printed No. 531, entitled: An act to incorporate The American Society of Church History, Incorporated.

Date of introduction January 27; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; amended February 9; ordered to third reading February 21; passed February 23. Assembly record.—Received from the Senate February 24; referred to the Committee on Charitable and Religious Societies; reported favorably and ordered to second reading March 15; ordered to third reading March 16; passed March 20. Record after passage.—Transmitted to Governor March 21; chapter No. 82.

PATTEN. Senate bill, introductory No. 298; printed No. 299, entitled: An act to amend the real property law, in relation to conveyances containing restrictions upon use.

Date of introduction January 27; referred to Committee on the Judiciary; died in Senate.

PATTEN. Senate bill, introductory No. 299; printed No. 300, entitled: An act to amend the Greater New York charter, in relation to the levying of taxes.

Date of introduction January 27; referred to Committee on Affairs of Cities; died in Senate.

PATTEN. Senate bill, introductory No. 361; printed No. 369, entitled: An act to amend the public service commissions law, in relation to duties of commissioners and appointment of members for first district.

Date of introduction February 1; referred to Committee on Public Service; died in Senate.

PATTEN. Senate bill, introductory No. 391; printed No. 400, entitled: An act to amend the code of civil procedure, in relation to presumptions affecting heirs and next of kin.

Date of introduction February 2; referred to Committee on Codes; died in Senate.

PATTEN. Senate bill, introductory No. 449; printed No. 468, entitled: An act to release to Emma Nehlsen all the right, title and interest of the people of the state of New York in and to certain real estate, with the buildings and improvements thereon situate at Evergreen, in the borough and county of Queens, city and state of New York, which escheated to the people of the state of New York by the death of Dorothea Ehrmann on July eighth, eighteen hundred and seventy-two.

Date of introduction February 7; referred to Committee on the Judiciary; died in Senate.

PATTEN. Senate bill, introductory No. 509; printed No. 1330; Assembly printed No. 2074, entitled: An act to amend the code of criminal procedure, in relation to peace officers.

Date of introduction February 10; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 23; amended March 23; ordered to third reading March 28; passed March 30. Assembly record.—Received from the Senate March 31; referred to the Committee on Codes; reported favorably and ordered to second reading April 12; amended April 12; ordered to third reading April 17; passed April 17. In Senate.—Assembly amendments concurred in April 18. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

PATTEN. Senate bill, introductory No. 743; printed No. 801, entitled: An act to amend the real property law, in relation to lands used and occupied for cemetery purposes.

Date of introduction February 29; referred to Committee on the Judiciary; died in Senate.

PATTEN. Senate bill, introductory No. 744; printed No. 802, entitled: An act to authorize the court of claims to hear and determine a claim, filed by Erna Ellis of Glendale, in the borough of Queens, city and state of New York, for injury to property alleged to have been caused through the negligence of certain convicts, while working on the Kaaterskill Clove road at Palenville, Greene county, New York.

Date of introduction February 29; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Claims; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; vetoed.

PATTEN. Senate bill, introductory No. 745; printed No. 803, entitled: An act to amend the membership corporations law, in relation to cemetery corporations.

Date of introduction February 29; referred to Committee on the Judiciary; died in Senate.

PATTEN. Senate bill, introductory No. 746; printed No. 804, entitled: An act to amend the Greater New York charter, in relation to the bureau of street cleaning of the borough of Queens and providing for a relief and pension fund for the benefit of the members of the clerical, mechanical and uniform force of such bureau.

Date of introduction February 29; referred to Committee on Affairs of Cities; died in Senate.

PATTEN. Senate bill, introductory No. 764; printed No. 822, entitled: An act to amend the Greater New York charter,

in relation to the reinstatement of retired members of the police force.

Date of introduction February 29; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Affairs of Cities; committee discharged and ordered to third reading March 28; passed March 28. Record after passage.—Transmitted to Mayor of New York March 29; returned from Mayor accepted April 7; transmitted to Governor April 7; chapter No. 208.

PATTEN. Senate bill, introductory No. 852; printed No. 937, entitled: An act to empower the city of New York to widen Kills path, a highway situate in the borough of Brooklyn and Queens, in said city, by acquiring through purchase or condemnation the lands of the various cemetery corporations or of others, abutting along said highway, from Jamaica avenue in the borough of Brooklyn to Myrtle avenue in the borough of Queens.

Date of introduction March 8; referred to Committee on Affairs of Cities; died in Senate.

PATTEN. Senate bill, introductory No. 853; printed No. 938, entitled: An act in relation to Palmetto street between Onderdonk avenue and Fresh Pond road in the borough of Queens, county of Queens, city and state of New York.

Date of introduction March 8; referred to Committee on Affairs of Cities; died in Senate.

PATTEN. Senate bill, introductory No. 946; printed No. 1065, entitled: An act to amend the judiciary law, in relation to exemption of jurors in Queens county.

Date of introduction March 15; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; not signed by Governor.

PATTEN. Senate bill, introductory No. 958; printed No. 1077, entitled: An act to amend an act, entitled "An act to grant to the city of New York certain lands under water in Flushing bay and Flushing creek and vicinity and providing for the improvement thereof," generally.

Date of introduction March 15; referred to Committee on Finance; died in Senate.

PATTEN. Senate bill, introductory No. 978; printed No. 1691, entitled: An act to amend the Greater New York charter, relative to changing the map or plan of the city of New York so as to provide for the improvement of the navigation of waters within or separating parts of said city by the establishment of bulkhead and pier head lines.

Date of introduction March 16; referred to Committee on Affairs of Cities; amended April 6; reported favorably and ordered to third reading April 19; died in Senate.

PATTEN. Senate bill, introductory No. 1179; printed No. 1351, entitled: An act to amend the Greater New York charter, in relation to the sale of tax liens.

Date of introduction March 24; referred to Committee on Affairs of Cities; died in Senate.

PATTEN. Senate bill, introductory No. 1227; printed No. 1629, entitled: An act to amend chapter one hundred and twenty-five of the laws of nineteen hundred and six, entitled "An act in relation to illuminating gas in the city of New York, and regulating the quality and pressure thereof and the price to consumers other than said city and providing a penalty for violation," in relation to price to be charged in the borough of Queens and the borough of Brooklyn.

Date of introduction March 27; referred to Committee on Public Service; amended April 5; reported favorably and referred to the Committee of the Whole April 14; died in Senate.

PATTEN. Senate bill, introductory No. 1392; printed No. 1756, entitled: An act to amend the Greater New York charter, in relation to the appointment of a director of the port.

Date of introduction April 10; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading April 14; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 502.

PATTEN. Senate bill, introductory No. 1437; printed No. 1854, entitled: An act to provide for submitting to the voters of the city of New York the question: "Shall the salary of every officer, or person, whose compensation is paid out of the city treasury, other than judicial or elective officers, and except such as are now or may hereafter be fixed by law, be fixed by the board of aldermen of the city of New York after a recommendation by the board of estimate and apportionment of the city of New York?" and declaring the effect of an affirmative determination of such question.

Date of introduction April 13; ordered to third reading and referred to Committee on Affairs of Cities; died in Senate.

PATTEN. Senate bill, introductory No. 1457; printed No. 1897, entitled: An act to provide for submitting to the voters of the city of New York the question "Shall the powers of the board of aldermen and of the board of estimate and apportionment in respect of salaries or compensation of city, borough and county officers and employees, except the salaries of judicial or elective officers, be co-ordinate?" and declaring the effect of an affirmative determination of such question.

Date of introduction April 14; ordered to third reading and referred to Committee on Affairs of Cities; died in Senate.

PATTEN. Senate bill, introductory No. 1475; printed No. 1926, entitled: An act authorizing the police commissioner of the city of New York to rehear the charges upon which Bernard T. Garity, formerly a patrolman of the police force in said city, was dismissed from said department in the year nineteen hundred and thirteen and to reinstate him in the position formerly held by him.

Date of introduction April 19; referred to Committee on Affairs of Cities; died in Senate.

RAMSPERGER. Senate bill, introductory No. 485; printed No. 507, entitled: An act to build and equip a range of glass houses for teaching floriculture and vegetableculture at the New York State College of Agriculture at Cornell University, making an appropriation therefor and providing for the appointment of an advisory committee.

Date of introduction February 9; referred to Committee on Finance; died in Senate.

RAMSPERGER. Senate bill, introductory No. 882; printed No. 977, entitled: An act to submit to the voters of certain territory in Erie county, a proposition to extend the boundaries of the city of Buffalo.

Date of introduction March 9; referred to Committee on Affairs of Cities; died in Senate.

RAMSPERGER. Senate bill, introductory No. 1057; printed No. 1197, entitled: An act to amend the liquor tax law, in relation to the issuance of certificates and the traffic in liquors by specified individuals in towns in which such traffic is otherwise prohibited as the result of a local option vote.

Date of introduction March 20; referred to Committee on Taxation and Retrenchment; died in Senate.

SAGE. Senate bill, introductory No. 103; printed No. 103, entitled: An act to amend chapter four hundred and sixty-six of the laws of nineteen hundred and four, entitled "An act in relation to street improvements in the city of Albany," relative to the district in which a petition for a street improvement is required.

Date of introduction January 10; referred to Committee on Affairs of Cities; died in Senate.

SAGE. Senate bill, introductory No. 104; printed No. 104, entitled: An act to repeal chapter three hundred and seventy-nine of the laws of eighteen hundred and sixty-two and certain sections of chapter one hundred and thirty-nine of the laws of eighteen

hundred and seventy as amended, relative to exemptions of certain taxes and assessments in the city of Albany.

Date of introduction January 10; referred to Committee on Affairs of Cities; died in Senate.

SAGE. Senate bill, introductory No. 105; printed No. 105, entitled: An act to enable the board of supervisors of the county of Albany to sell and convey to the city of Albany all of the right, title and interest of which the county of Albany is now seized and possessed in and to certain real estate required by the city of Albany for the opening of Holland avenue.

Date of introduction January 10; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

SAGE. Senate bill, introductory No. 106; printed No. 106, entitled: An act to enable the city of Albany to sell and convey to the county of Albany certain real estate on the southeasterly side of Holland avenue in said city.

Date of introduction January 10; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

SAGE. Senate bill, introductory No. 109; printed No. 109, entitled: An act fixing the boundary lines of the city of Albany and the towns of Bethlehem, Colonie and Guilderland in Albany county, together with ward boundaries in the city of Albany, providing for the adjustment of bounded indebtedness, taxes, assessments and real property in the territory affected, and in relation to the terms of office of public officials in said towns and city.

Date of introduction January 10; referred to Committee Affairs of Cities; died in Senate.

SAGE. Senate bill, introductory No. 276; printed No. 276, entitled: An act to enable the board of supervisors of the county of Albany to grant and convey to the Albany Medical College the whole or any portion of certain lands on the northerly side of New Scotland avenue in the city of Albany in exchange for the

premises on Delaware avenue heretofore conveyed by said board of supervisors to said Albany Medical College.

Date of introduction January 26; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

SAGE. Senate bill, introductory No. 277; printed No. 277, entitled: An act to repeal chapter six hundred and seventy of the laws of nineteen hundred and six, entitled "An act to establish a new state prison in the eastern part of the state to take the place of Sing Sing prison; to authorize the governor to appoint a commission to select and purchase a site," and the acts amendatory thereof, and other acts in relation to the powers of such commission on new prisons.

Date of introduction January 26; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole February 3; recommitted February 21; died in Senate.

SAGE. Senate bill, introductory No. 278; printed No. 278, entitled: An act to amend the legislative law, in relation to the legislative bill drafting commission.

Date of introduction January 26; referred to Committee on Finance; died in Senate.

SAGE. Senate bill, introductory No. 389; printed No. 398, entitled: An act directing the supervisor of the town of Coeymans, Albany county, to pay over to the treasurer of the village of Ravena certain moneys collected in such village on account of highway taxes of such town.

Date of introduction February 2; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

SAGE. Senate bill, introductory No. 411; printed No. 427, entitled: An act making an appropriation for highway improvement purposes.

Date of introduction February 3; referred to Committee on Finance; died in Senate.

SAGE. Senate bill, introductory No. 492; printed No. 514, entitled: An act making an appropriation for expenses of the forestry bureau in the conservation department.

Date of introduction February 9; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading February 24; recommitted March 6; died in Senate.

SAGE. Senate bill, introductory No. 493; printed No. 515, entitled: An act making an appropriation for enforcing the fire provisions of the conservation law and protecting state land.

Date of introduction February 9; referred to Committee on Finance; reported favorably and referred to Committee of the Whole February 23; ordered to third reading February 24; Assembly bill, same title, substituted and passed March 1 (A. Pr. No. 673); chapter No. 35.

SAGE. Senate bill, introductory No. 537; printed No. 566, entitled: An act to empower the commissioners of the land office to hear, determine and certify the claim of the Stockbridge tribe of Indians to the proceeds of lands formerly held within the state, and subsequently sold by the state.

Date of introduction February 14; referred to Committee on Finance; died in Senate.

SAGE. Senate bill, introductory No. 582; printed No. 614, entitled: An act to amend the legislative law, in relation to contested elections of members of the legislature.

Date of introduction February 21; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; returned from Assembly dead.

SAGE. Senate bill, introductory No. 637; printed No. 673, entitled: An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of B. D. Pierce, Jr., Company against the state for work on a section of the Al-

bany-Guilderland highway under contract with the state commission of highways, and to render judgment therefor.

Date of introduction February 22; referred to Committee on the Judiciary; died in Senate.

SAGE. Senate bill, introductory No. 776; printed No. 1170, entitled: An act to amend chapter six hundred and sixty-nine of the laws of nineteen hundred and fifteen, entitled "An act to amend the state finance law, in relation to prohibiting the payment of moneys for the purchase of automobiles without specific appropriations therefor," in relation to defining the type of automobile.

Date of introduction March 1; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; amended March 17; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 392.

SAGE. Senate bill, introductory No. 791; printed No. 860, entitled: An act to amend the legislative law, in relation to the distribution of journals and documents to the attorney-general.

Date of introduction March 2; referred to Committee on the Judiciary; died in Senate.

SAGE. Senate bill, introductory No. 792; printed No. 1099; Assembly printed No. 2003, entitled: An act to extend the time for making the final report of the commissioners designated to consolidate, codify and revise the laws relating to the estates of deceased persons and the procedure and practice in surrogate's courts.

Date of introduction March 2; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole March 15; amended March 15; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Ways and Means; amended April 6; reported favorably and ordered to third

reading April 13; passed April 13. In Senate.—Assembly amendments concurred in April 14. Record after passage.—Transmitted to Governor April 18; chapter No. 400.

SAGE. Senate bill, introductory No. 793; printed No. 862, entitled: An act to amend the conservation law, in relation to the protection of elk in the Adirondack region, providing a game protector therefor, and making an appropriation for the expenses thereof.

Date of introduction March 2; referred to Committee on Finance; died in Senate.

SAGE. Senate bill, introductory No. 814; printed No. 893, entitled: An act to amend section five of chapter two hundred and eighty-five of the laws of nineteen hundred and fourteen, entitled "An act to establish a firemen's pension fund in the city of Albany and repealing certain acts in relation thereto known as chapter one hundred and seventy-three of the laws of eighteen hundred and eighty-three, chapter three hundred and thirty-two of the laws of eighteen hundred and eighty-five and chapter four hundred and eleven of the laws of eighteen hundred and eighty-six," in relation to beneficiaries.

Date of introduction March 6; referred to Committee on Affairs of Cities; died in Senate.

SAGE. Senate bill, introductory No. 815; printed No. 1016, entitled: An act making an appropriation for immediate expenses of the legislature.

Date of introduction March 6; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole March 10; amended March 13; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; ordered to third reading March 22; passed March 23. Record after passage.—Transmitted to Governor March 24; chapter No. 106.

SAGE. Senate bill, introductory No. 816; printed No. 1165, entitled: An act to reorganize the commission on new prisons, to define its powers and duties, to provide for the establishment of

a new farm and industrial prison and the construction of new buildings at Sing Sing prison, making appropriations for such purposes and repealing certain acts relating to the commission on new prisons.

Date of introduction March 6; referred to Committee on Finance; amended March 17; reported favorably and ordered to third reading March 30; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 594.

SAGE. Senate bill, introductory No. 817; printed No. 896, entitled: An act to amend the legislative law, in relation to financial information for the use of the legislature and the preparation of the annual budget and appropriation bills.

Date of introduction March 6; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole March 10; ordered to third reading March 13; passed March 20. Assembly record.—Received from the Senate March 21; referred to the Committee on Ways and Means; committee discharged and substituted for Assembly bill, same title, on third reading, March 22; passed March 23. Record after passage.—Transmitted to Governor March 24; chapter No. 130.

SAGE. Senate bill, introductory No. 888; printed No. 1509, entitled: An act to amend the prison law, in relation to convict labor, commutations, compensation and paroles.

Date of introduction March 9; referred to Committee on Finance; amended March 30; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 11; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 12; passed April 12. Record after passage—Transmitted to Governor April 14; chapter No. 358.

SAGE. Senate bill, introductory No. 979; printed No. 1109, entitled: An act to amend chapter four hundred and twenty-eight of the laws of nineteen hundred and fourteen, entitled "An act

to establish and maintain a water department in and for the city of Watervliet," in relation to the sale of water.

Date of introduction March 16; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from Senate April 4; referred to the Committee on Affairs of Cities; committee discharged and ordered to third reading April 4; passed April 4. Record after passage.—Transmitted to Mayor of Watervliet April 5; returned from Mayor accepted April 13; transmitted to Governor April 14; chapter No. 264.

SAGE. Senate bill, introductory No. 1099; printed No. 1247, entitled: An act to authorize the county of Albany to sell and convey to the state certain lands.

Date of introduction March 22; referred to Committee on Finance; reported favorably and ordered to third reading March 29; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; chapter No. 266.

SAGE. Senate bill, introductory No. 1184; printed No. 1656, entitled: An act to amend the code of civil procedure, in relation to jurisdiction of county court of Albany county in matrimonial actions.

Date of introduction March 24; referred to Committee on Codes; amended and recommitted April 6; died in Senate.

SAGE. Senate bill, introductory No. 1185; printed No. 1357, entitled: An act relative to the construction of a sewer in the city of Albany in First avenue from Benjamin street to Prospect avenue and in Prospect avenue to McCarty avenue and in McCarty avenue to Delaware avenue and to the apportionment and assessment of the cost and expenses thereof.

Date of introduction March 24; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee

of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Mayor of Albany April 14; transmitted to Governor April 20; returned from Mayor accepted: chapter No. 325.

SAGE. Senate bill, introductory No. 1210; printed No. 1405, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article seven of the constitution, relating to the extension of the forest preserve.

Date of introduction March 27; referred to Committee on the Judiciary; died in Senate.

SAGE. Senate bill, introductory No. 1223; printed No. 1581, entitled: An act making an appropriation for the mobilization, encampment and field exercise of the national guard of the state.

Date of introduction March 27; referred to Committee on Finance; committee discharged and ordered to third reading March 27; amended March 30 and April 4; Assembly bill, same title, substituted and passed April 13 (A. Pr. No. 1989); chapter No. 615.

SAGE. Senate bill, introductory No. 1303; printed No. 1555, entitled: An act to authorize a contract for the construction of additional accommodations at Long Island State Hospital in an additional amount.

Date of introduction April 1; referred to Committee on Finance; committee discharged and ordered to third reading April 1; passed April 10. Assembly record.—Received from the Senate April 10; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 258.

SAGE. Senate bill, introductory No. 1326; printed No. 1811, entitled: An act making appropriations for the support of government.

Date of introduction April 5; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole April 10; amended April 12; ordered to third reading April 17; Assembly bill, same title, substituted April 18; passed April 19 (A. Pr. No. 2071); chapter No. 646.

SAGE. Senate bill, introductory No. 1351; printed No. 1660, entitled: An act reappropriating an unexpended balance of the appropriation made by chapter two hundred and sixty of the laws of nineteen hundred and fifteen, entitled "An act making an appropriation for an enumeration of the inhabitants of the state."

Date of introduction April 6; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 13; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; vetoed.

SAGE. Senate bill, introductory No. 1379; printed No. 1721, entitled: An act making appropriations from the sinking funds of the state for the payment of the interest on the state debt during the period from the first of July, nineteen hundred and sixteen, to September first, nineteen hundred and seventeen.

Date of introduction April 10; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 13; Assembly bill, same title, substituted April 15; passed April 19 (A. Pr. No. 2046); chapter No. 642.

SAGE. Senate bill, introductory No. 1380; printed No. 1722, entitled: An act to amend the public lands law, in relation to the payment of encumbrances on public lands and the acquisition of undivided interests therein adverse to the state, and making an appropriation therefor.

Date of introduction April 10; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 13; passed April 15. Assembly

record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 329.

SAGE. Senate bill, introductory No. 1381; printed No. 1723, entitled: An act to amend the code of civil procedure, in relation to partition actions brought against the people of the state and costs therein.

Date of introduction April 10; ordered to third reading and referred to Committee on Codes; reported favorably and ordered to third reading April 15; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Codes; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 330.

SAGE. Senate bill, introductory No. 1382; printed No. 1724, entitled: An act to amend the code of civil procedure, in relation to actions for foreclosure of mortgages brought against the people of the state and costs therein.

Date of introduction April 10; referred to Committee on Codes; reported favorably and ordered to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Codes; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 331.

SAGE. Senate bill, introductory No. 1383; printed No. 1725, entitled: An act to amend chapter twenty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated laws," with regard to the time of meeting of boards of registration for other than general elections.

Date of introduction April 10; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; returned from Assembly dead.

SAGE. Senate bill, introductory No. 1384; printed No. 1726, entitled: An act to amend chapter thirteen of the laws of nineteen hundred and nine, entitled the "canal law," by adding to section fifteen thereof a new subdivision, to be known as subdivision eleven, authorizing the canal board to sell and convey rights of way and access in and over canal lands from public streets, highways or navigable waterways to unappropriated lands.

Date of introduction April 10; referred to Committee on Finance; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 300.

SAGE. Senate bill, introductory No. 1460; printed No. 1906, entitled: An act making an appropriation to the department of agriculture for carrying out the provisions of article eleven-a of the agricultural law, in relation to a bureau of farm settlement.

Date of introduction April 15; referred to Committee on Finance; committee discharged and ordered to third reading April 15; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Ways and Means; returned from Assembly dead.

SANDERS. Senate bill, introductory No. 112; printed No. 112, entitled: An act to amend the village law, in relation to extension of village lighting systems.

Date of introduction January 10; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 2; Assembly bill, same title, substituted February 3; passed February 21 (S. Pr. No. 489); chapter No. 20.

SANDERS. Senate bill, introductory No. 440; printed No. 459, entitled: An act to legalize and validate bonds of the city of Batavia in the sum of one hundred and seventy-five thousand dollars for the installation of a filtration and water plant and the modernizing and repairing of the municipal electric light and

sewage disposal plant, and the issuance and sale of such bonds, to provide for their payment and to legalize the various acts and proceedings affecting the authorization for such improvements and bonds.

Date of introduction February 7; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading February 24; passed February 28. Assembly record.—Received from the Senate March 1; referred to the Committee on the Judiciary; reported favorably and ordered to second reading March 8; ordered to third reading March 9; passed March 13. Record after passage.—Transmitted to Mayor of Batavia March 14; returned from Mayor accepted March 22; transmitted to Governor March 22; chapter No. 73.

SANDERS. Senate bill, introductory No. 441; printed No. 460, entitled: An act to validate and provide for the payment of bonds of the village of Le Roy for water supply purposes, issued and sold pursuant to the vote at a special election of such village held on the eleventh day of March, nineteen hundred and fifteen, and to legalize all the acts and proceedings affecting the authorization for such bonds.

Date of introduction February 7; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 23; Assembly bill, same title, substituted February 24; passed February 28 (A. Pr. No. 508); chapter No. 30.

SANDERS. Senate bill, introductory No. 504; printed No. 526, entitled: An act to amend the village law, in relation to the application of surplus village funds.

Date of introduction February 9; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 24; ordered to third reading March 1; Assembly bill, same title, substituted and passed March 6 (A. Pr. No. 702); chapter No. 52.

SANDERS. Senate bill, introductory No. 874; printed No. 959, entitled: An act to authorize the Exempt Volunteer Fire-

men's Association, Incorporated, of the city of Batavia, New York, to collect the tax on foreign fire insurance companies, or their agents, in the city of Batavia, and providing for its disposition.

Date of introduction March 8; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of Batavia April 20; transmitted to Governor April 20; not accepted by the city.

SANDERS. Senate bill, introductory No. 1055; printed No. 1195, entitled: An act to amend the education law, in relation to transferring the powers of the state board of charities, relative to the New York State School for the Blind to the commissioner of education.

Date of introduction March 20; referred to Committee on Public Education; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Public Education; returned from Assembly dead.

SANDERS. Senate bill, introductory No. 1264; printed No. 1869, entitled: An act to submit to the electors of the city of Batavia the following proposition: Shall the common council of the city of Batavia be authorized to establish a pure water and filtration system and to provide for repairing and modernizing the municipal electric light and sewage disposal plant at an expense not exceeding in the aggregate the sum of two hundred thousand dollars?" and declaring the effect of an affirmative determination thereof.

Date of introduction March 29; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading April 5; amended April 13; passed April 18. Assembly record.—Received from the Senate April

15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 21. Record after passage.—Transmitted to Mayor of Batavia April 20; transmitted to Governor April 20; not accepted by the city.

SANDERS. Senate bill, introductory No. 1361; printed No. 1675, entitled: An act to amend the civil service law, in relation to the legal expenses of veterans reinstated by order of the courts.

Date of introduction April 7; referred to Committee on Civil Service; died in Senate.

SANDERS. Senate bill, introductory No. 1422; printed No. 1509, entitled: An act to provide for the construction of a monument to commemorate the services of the one hundred and fourth regiment of infantry, New York volunteers, upon the battlefield of Antietam and making an appropriation therefor.

Date of introduction April 12; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 637.

SIMPSON. Senate bill, introductory No. 5; printed No. 5, entitled: An act to remove restrictions on motor vehicle traffic upon the thoroughfare known as the "speedway" in the city of New York.

Date of introduction January 5; referred to Committee on Affairs of Cities; died in Senate.

SIMPSON. Senate bill, introductory No. 89; printed No. 89, entitled: An act to amend the real property law, in relation to registering titles to real property.

Date of introduction January 10; referred to Committee on the Judiciary; died in Senate.

SIMPSON. Senate bill, introductory No. 90; printed No. 90, entitled: Concurrent resolution of the Senate and Assembly pro-

posing an amendment to the constitution, in relation to the registration of land titles.

Date of introduction January 10; referred to Committee on the Judiciary; died in Senate.

SIMPSON. Senate bill, introductory No. 101; printed No. 101, entitled: An act to amend chapter one hundred and two of the laws of eighteen hundred and ninety-three, entitled "An act to lay out, establish and regulate a public driveway in the city of New York," in relation to the use of such driveway.

Date of introduction January 10; referred to Committee on Affairs of Cities; died in Senate.

SIMPSON. Senate bill, introductory No. 144; printed No. 144, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to the constitution, in relation to the registration of land titles.

Date of introduction January 17; referred to Committee on the Judiciary; died in Senate.

SIMPSON. Senate bill, introductory No. 423; printed No. 442, entitled: An act to amend the insurance law, in relation to the lending of money by corporations.

Date of introduction February 7; referred to Committee on Insurance; died in Senate.

SIMPSON. Senate bill, introductory No. 510; printed No. 1649, entitled: An act to amend chapter one hundred and two of the laws of eighteen hundred and ninety-three, entitled "An act to lay out, establish and regulate a public driveway in the city of New York," in relation to the use of such driveway.

Date of introduction February 10; referred to Committee on Affairs of Cities; amended March 8; reported favorably and referred to the Committee of the Whole March 23; ordered to third reading April 5; amended April 6; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; motion to discharge committee lost April 20; returned from Assembly dead.

SIMPSON. Senate bill, introductory No. 651; printed No. 487, entitled: An act to confer jurisdiction on the court of claims and to determine the alleged claims of the publishers of certain newspapers for compensation for the publication, under erroneous designations by local authorities or by the secretary of state, of certain laws and propositions submitted to the people, and to render judgment therefor.

Date of introduction February 23; referred to Committee on the Judiciary: died in Senate.

SIMPSON. Senate bill, introductory No. 661; printed No. 488, entitled: An act to amend the Greater New York charter, in relation to the department of correction and the transfer to such department from the police department of the house for the detention of witnesses, and to repeal section three hundred and twenty-one thereof providing for accommodations for detention of witnesses.

Date of introduction February 23; referred to Committee on Affairs of Cities: reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; introduced April 6; Assembly bill, same title, substituted and passed April 13 (A. Pr. No. 1944); chapter No. 492.

SIMPSON. Senate bill, introductory No. 862; printed No. 487, entitled: An act to amend the Greater New York charter, in relation to the powers of the board of aldermen respecting the licensing of drivers of animal-drawn vehicles and drivers or operators of motor vehicles.

Date of introduction March 8; referred to Committee on Affairs of Cities: died in Senate.

SIMPSON. Senate bill, introductory No. 863; printed No. 948, entitled: An act to amend the Greater New York charter, in relation to the powers of the commissioner of licenses with respect to licenses of drivers of animal-drawn vehicles and drivers or operators of motor vehicles.

Date of introduction March 8; referred to Committee on Affairs of Cities: died in Senate.

SIMPSON. Senate bill, introductory No. 947; printed No. 1066, entitled: An act to amend the highway law, in relation to motor vehicles.

Date of introduction March 15; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

SIMPSON. Senate bill, introductory No. 948; printed No. 1067, entitled: An act to amend the code of civil procedure, in relation to inchoate right of dower.

Date of introduction March 15; referred to Committee on Codes; died in Senate.

SIMPSON. Senate bill, introductory No. 949; printed No. 1068, entitled: An act to amend the Greater New York charter, in relation to the payment of the cost of certain public improvements.

Date of introduction March 15; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 19; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Affairs of Cities; returned from Assembly dead.

SIMPSON. Senate bill, introductory No. 1036; printed No. 1177, entitled: An act to amend the election law, in relation to the designation of places for registry and voting.

Date of introduction March 20; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; returned from Assembly dead.

SIMPSON. Senate bill, introductory No. 1148; printed No. 1305, entitled: An act to amend the tenement house law, in relation to yard spaces of lots running through from street to street.

Date of introduction March 23; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Affairs of

Cities; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 317.

SIMPSON. Senate bill, introductory No. 1159; printed No. 1316, entitled: An act to amend the inferior criminal courts act of the city of New York, in relation to cases in which a summons may be substituted for an arrest.

Date of introduction March 23; referred to Committee on Affairs of Cities; died in Senate.

SIMPSON. Senate bill, introductory No. 1226; printed No. 1778, entitled: An act to amend the Greater New York charter and repealing section two hundred and fifty-eight-a thereof, in relation to the law department.

Date of introduction March 27; referred to Committee on Affairs of Cities; amended and recommitted April 11; died in Senate.

SIMPSON. Senate bill, introductory No. 1249; printed No. 1448, entitled: An act to amend the tenement house law, relative to permits, penalties and laws repealed.

Date of introduction March 29; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 319.

SIMPSON. Senate bill, introductory No. 1271; printed No. 1470, entitled: An act to amend the general business law, in relation to premiums, prizes, stamps or other similar devices in connection with the sale of goods, wares and merchandise.

Date of introduction March 29; referred to Committee on the Judiciary; died in Senate.

SIMPSON. Senate bill, introductory No. 1272; printed No. 1471, entitled: An act authorizing the police commissioner of

the city of New York to rehear the charges upon which John P. Kilcommons, formerly a hostler in the police department of the said city, was dismissed from said department in the year nineteen hundred and thirteen and to reinstate him in the position formerly held by him.

Date of introduction March 29; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 620.

SIMPSON. Senate bill, introductory No. 1279; printed No. 1503, entitled: An act to amend the general municipal law, in relation to the examination of municipal accounts and to providing for special examiners therefor.

Date of introduction March 30; referred to Committee on the Judiciary; died in Senate.

SIMPSON. Senate bill, introductory No. 1357; printed No. 1666, entitled: An act to amend the Greater New York charter, in relation to the rehearing of charges against and the reinstatement of persons dismissed.

Date of introduction April 6; referred to Committee on Affairs of Cities; died in Senate.

SIMPSON. Senate bill, introductory No. 1376; printed No. 1718, entitled: An act to amend the Greater New York charter, in relation to the filing of maps showing the lay-out of streets upon private property.

Date of introduction April 10; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of New

York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 513.

SIMPSON. Senate bill, introductory No. 1377; printed No. 1719, entitled: An act to amend the Greater New York charter, in relation to directors of special branches in the board of education.

Date of introduction April 10; referred to Committee on Affairs of Cities; died in Senate.

SIMPSON. Senate bill, introductory No. 1454; printed No. 1874, entitled: An act to amend the code of civil procedure, in relation to including within the terms of section thirty-three hundred and seven, fees and poundage to which the sheriff of the county of New York is now entitled under chapter five hundred and twenty-three of the laws of eighteen hundred and ninety, as amended by chapter four hundred and eighteen of the laws of eighteen hundred and ninety-two.

Date of introduction April 14; ordered to third reading April 14; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Codes; committee discharged and substituted for Assembly bill, same title, on third reading, April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

SIMPSON. Senate bill, introductory No. 1464; printed No. 1910, entitled: An act to amend the military law so as to provide for the organization and equipment of a colored regiment in the city of New York.

Date of introduction April 17; ordered to third reading and referred to Committee on Military Affairs; died in Senate.

SLATER. Senate bill, introductory No. 1; printed No. 1, entitled: Act act to amend the election law in relation to qualifications of voters for electors of president and vice-president of the United States.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

SLATER. Senate bill, introductory No. 2; printed No. 2, entitled: An act providing for the acquisition of a site and the erection of a state armory and boat house in the village of Ossining, Westchester county, and making an appropriation therefor.

Date of introduction January 5; referred to Committee on Finance; died in Senate.

SLATER. Senate bill, introductory No. 3; printed No. 1623, entitled: An act to amend the general corporation law, in relation to corporate certificates.

Date of introduction January 5; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole April 5; amended April 5; ordered to third reading April 6; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; returned from Assembly dead.

SLATER. Senate bill, introductory No. 8; printed No. 432, entitled: An act authorizing and empowering the commissioners of the land office to grant to the village of Tarrytown all the interest of the state in and to certain lands under the waters of the Hudson river for the purpose of a public park.

Date of introduction January 5; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole February 3; amended February 3; ordered to third reading February 8; passed February 22. Assembly record.—Received from the Senate February 23; substituted for Assembly bill, same title, on third reading, February 23; passed February 23. Record after passage.—Transmitted to Governor February 24; chapter No. 22.

SLATER. Senate bill, introductory No. 57; printed No. 57, entitled: Concurrent resolution of the Senate and Assembly adding a new article to the constitution, in relation to taxation.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

SLATER. Senate bill, introductory No. 91; printed No. 661, entitled: An act to amend the stock corporation law, in relation to the inspection of stock books.

Date of introduction January 10; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; amended February 9; ordered to third reading February 21; amended February 22; passed February 29. Assembly record.—Received from the Senate March 1; referred to the Committee on the Judiciary; reported favorably and ordered to second reading March 22; ordered to third reading March 23; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 127.

SLATER. Senate bill, introductory No. 92; printed No. 92, entitled: An act to establish a normal and training school in the county of Westchester, and making an appropriation therefor.

Date of introduction January 10; referred to Committee on Finance; died in Senate.

SLATER. Senate bill, introductory No. 93; printed No. 93, entitled: An act to amend the civil service law, in relation to establishing commissions for certain counties.

Date of introduction January 10; referred to Committee on Civil Service; died in Senate.

SLATER. Senate bill, introductory No. 94; printed No. 1339, entitled: An act to amend the tax law, in relation to the exemption and taxation of certain nonbusiness corporations.

Date of introduction January 10; referred to Committee on Taxation and Retrenchment; amended March 1, March 9; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; amended March 13, March 23; recommitted April 11; died in Senate.

SLATER. Senate bill, introductory No. 95; printed No. 1619, entitled: An act to amend the education law, in relation to additional qualifications required of voters in certain school districts to entitle them to vote upon certain propositions.

Date of introduction January 10; referred to Committee on Public Education; reported favorably and referred to the Committee of the Whole March 31; ordered to third reading April 3; amended April 5; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Public Education; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; not signed by Governor.

SLATER. Senate bill, introductory No. 96; printed No. 96, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article three of the constitution, in relation to the local government of counties.

Date of introduction January 10; referred to Committee on the Judiciary; died in Senate.

SLATER. Senate bill, introductory No. 121; printed No. 121, entitled: An act to incorporate the Pelham Masonic Guild.

Date of introduction January 11; referred to Committee on the Judiciary; died in Senate.

SLATER. Senate bill, introductory No. 122; printed No. 122, entitled: An act to amend chapter seven hundred and twenty-four of the laws of nineteen hundred and five, entitled "An act to provide for an additional supply of pure and wholesome water for the city of New York; and for the acquisition of lands or interest therein, and for the construction of the necessary reservoirs, dams, aqueducts, filters and other appurtenances for that purpose; and for the appointment of a commission with the powers and duties necessary and proper to attain these objects," in relation to the use of the water supply of New York city by municipal corporations in Westchester county.

Date of introduction January 11; referred to Committee on Affairs of Cities; died in Senate.

SLATER. Senate bill, introductory No. 141; printed No. 141, entitled: An act to provide a charter for the city of New Rochelle.

Date of introduction January 17; referred to Committee on Affairs of Cities; died in Senate.

SLATER. Senate bill, introductory No. 142; printed No. 365. entitled: An act to amend the highway law, in relation to the purchase of lands to be acquired for right of way and other purposes and payment therefor.

Date of introduction January 17; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole January 27; amended January 27; ordered to third reading January 31; amended February 1; passed February 8. Assembly record.—Received from the Senate February 9; substituted for Assembly bill, same title, on third reading, February 9; passed February 9. Record after passage.—Transmitted to Governor February 10; chapter No. 12.

SLATER. Senate bill, introductory No. 149; printed No. 431, entitled: An act to amend the village law, in relation to acceptance by dedication of streets less than two rods in width.

Date of introduction January 17; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 2; amended February 3; Assembly bill, same title, substituted February 8; passed February 9 (A. Pr. No. 433); chapter No. 10.

SLATER. Senate bill, introductory No. 150; printed No. 150, entitled: An act to amend the prison law, in relation to the retirement of employees in state prisons and reformatories, and pensions of such employees.

Date of introduction January 17; referred to Committee on Finance; died in Senate.

SLATER. Senate bill, introductory No. 172; printed No. 412, entitled: An act authorizing and empowering the county of Westchester to assume the payment of attorneys' fees, disbursements and other expenses, amounting to the sum of thirteen hundred and fifty-two dollars and fifty-two cents, incurred by John H.

McArdle as supervisor of the town of Mamaroneck, in such county, in defense of an action brought by John Carroll, to declare chapter six hundred and ten of the laws of eighteen hundred and seventy-four, and acts amendatory thereof and supplementary thereto, repealed, and to reimburse the town of Mamaroneck in such county for the payments, disbursements and expenses so made and incurred.

Date of introduction January 19; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole January 27; amended January 27; ordered to third reading January 31; amended February 2; passed February 21. Assembly record.—Received from the Senate February 23; ordered to third reading February 23; passed February 23. Record after passage.—Transmitted to Governor February 24; chapter No. 23.

SLATER. Senate bill, introductory No. 173; printed No. 173, entitled: An act in relation to the city court of the city of New Rochelle, its officers and practice.

Date of introduction January 19; referred to Committee on Affairs of Cities; died in Senate.

SLATER. Senate bill, introductory No. 174; printed No. 174, entitled: An act authorizing the village of Peekskill, Westchester county, to issue bonds to improve and protect South street in said village.

Date of introduction January 19; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 2; ordered to third reading February 3; passed February 8. Assembly record.—Received from the Senate February 9; substituted for Assembly bill, same title, on third reading, February 9; passed February 9. Record after passage.—Transmitted to Governor February 10; chapter No. 2.

SLATER. Senate bill, introductory No. 175; printed No. 175, entitled: An act to amend chapter one hundred and seventeen of the laws of eighteen hundred and eighty-three, entitled "An act to amend, consolidate and revise the charter of the village of

Peekskill, and the several acts amendatory thereof," in relation to the issue and payment of refunding bonds.

Date of introduction January 19; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 2; Assembly bill, same title, substituted February 3; passed February 9 (A. Pr. No. 269); chapter No. 4.

SLATER. Senate bill, introductory No. 207; printed No. 207, entitled: An act to amend section thirteen hundred and forty-five of the code of civil procedure, in relation to judgment or orders on appeal to the supreme court from an inferior court.

Date of introduction January 24; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Codes; reported favorably and ordered to second reading March 15; ordered to third reading March 16; passed March 20. Record after passage.—Transmitted to Governor March 21; chapter No. 84.

SLATER. Senate bill, introductory No. 208; printed No. 208, entitled: An act to extend the time of the village of Port Chester to lay out and open a highway or highways over lands ceded to it by chapter five hundred and eighteen of the laws of nineteen hundred and eleven and chapter twenty-three of the laws of nineteen hundred and fourteen.

Date of introduction January 24; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 2; ordered to third reading February 3; passed February 8. Assembly record.—Received from the Senate February 10; referred to the Committee on Affairs of Villages; reported favorably and ordered to second reading February 24; ordered to third reading February 25; passed February 29. Record after passage.—Transmitted to Governor March 1; chapter No. 29.

SLATER. Senate bill, introductory No. 209; printed No. 209, entitled: An act to amend chapter five hundred and seventeen of

the laws of eighteen hundred and ninety-nine, entitled "An act to authorize the paving and macadamizing of streets, avenues, highways and public places in the village of Port Chester, Westchester county, and to provide for the payment of the expense of the same."

Date of introduction January 24; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 2; ordered to third reading February 3; passed February 8. Assembly record.—Received from the Senate February 10; referred to the Committee on Affairs of Villages; reported favorably and ordered to second reading February 24; ordered to third reading February 25; passed February 29. Record after passage.—Transmitted to Governor March 1; chapter No. 28.

SLATER. Senate bill, introductory No. 210; printed No. 210, entitled: An act to create a committee to inquire into the subject of military training for the young men of this state, and making an appropriation therefor.

Date of introduction January 24; referred to Committee on Finance; died in Senate.

SLATER. Senate bill, introductory No. 269; printed No. 269, entitled: An act authorizing the village of Peekskill, in Westchester county, to issue bonds to pay indebtedness in the fire department.

Date of introduction January 26; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 2; ordered to third reading February 3; passed February 8. Assembly record.—Received from the Senate February 10; referred to the Committee on Affairs of Villages; committee discharged and substituted for Assembly bill, same title, on third reading, February 14; passed February 14. Record after passage.—Transmitted to Governor February 15; chapter No. 3.

SLATER. Senate bill, introductory No. 270; printed No. 270, entitled: An act to exempt the village of Peekskill, in West-

chester county, from the payment of a transfer tax upon real property heretofore devised to said village for street purposes.

Date of introduction January 26; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Affairs of Villages; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; not signed by Governor.

SLATER. Senate bill, introductory No. 285; printed No. 285. entitled: An act to confer jurisdiction on the court of claims to hear, try and determine the alleged claim of Richard G. Hiler against the state for damages alleged to have been sustained by him, and to render judgment thereon.

Date of introduction January 26; referred to Committee on the Judiciary; died in Senate.

SLATER. Senate bill, introductory No. 333; printed No. 337. entitled: An act to amend chapter four hundred and fifty-two of the laws of nineteen hundred and eight, as amended, entitled "An act to supplement the general laws relating to the government of the city of Yonkers, and to revise and consolidate the local laws relating thereto," generally.

Date of introduction January 31; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading March 1; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on third reading, March 14; passed March 14. Record after passage.—Transmitted to Mayor of Yonkers March 15; returned from Mayor accepted March 21; transmitted to Governor March 21; chapter No. 85.

SLATER. Senate bill, introductory No. 334; printed No. 338. entitled: An act to authorize the town of Eastchester in the county of Westchester to expend a sum not exceeding three thou-

sand dollars for the purchase of a chemical and hose automobile apparatus for said town, in accordance with a vote of the electors at the biennial town meeting held in said town on the second day of November, nineteen hundred and fifteen, and to authorize said town to issue its bonds to raise funds to meet said expenditure, and to provide for the payment of the interest and principal of said bonds.

Date of introduction January 31; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 10; ordered to third reading February 24; Assembly bill, same title, substituted and passed February 28 (A. Pr. No. 356); chapter No. 34.

SLATER. Senate bill, introductory No. 335; printed No. 339, entitled: An act to authorize the town of Eastchester in the county of Westchester to expend a sum not exceeding three thousand dollars for the purchase of a chemical and hose automobile apparatus for said town, in accordance with a vote of the electors at the biennial town meeting held in said town on the second day of November, nineteen hundred and fifteen, and to authorize said town to issue its bonds to raise funds to meet said expenditure, and to provide for the payment of the interest and principal of said bonds.

Date of introduction January 31; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 10; ordered to third reading February 24; Assembly bill, same title, substituted and passed February 28 (A. Pr. No. 355); chapter No. 33.

SLATER. Senate bill, introductory No. 336; printed No. 340, entitled: An act authorizing the board of trustees of the village of Ossining to issue bonds and to apply the proceeds thereof to the payment of floating indebtedness incurred by such board for village purposes, the reimbursement of special funds of such village used to pay such indebtedness and to other purposes.

Date of introduction January 31; referred to Committee on Affairs of Villages; reported favorably and referred to the Com-

mittee of the Whole February 14; ordered to third reading February 24; Assembly bill, same title, substituted February 28; passed February 29 (A. Pr. No. 437); chapter No. 37.

SLATER. Senate bill, introductory No. 337; printed No. 341, entitled: An act authorizing the board of trustees of the village of Ossining to issue bonds and to apply the proceeds thereof to the payment of floating indebtedness incurred by such board for village purposes, the reimbursement of special funds of such village used to pay such indebtedness and to other purposes.

Date of introduction January 31; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 14; ordered to third reading February 24; Assembly bill, same title, substituted February 28; passed March 7 (S. Pr. No. 799); recalled from Governor; re-passed March 31 (A. Pr. No. 1629); chapter No. 211.

SLATER. Senate bill, introductory No. 354; printed No. 357, entitled: An act in relation to the determination and payment of damages occasioned by restrictive laws as to territory within watersheds constituting the source of water supply of the city of New York.

Date of introduction January 31; referred to Committee on Finance; died in Senate.

SLATER. Senate bill, introductory No. 355; printed No. 358, entitled: An act to amend chapter seven hundred and thirteen of the laws of nineteen hundred and fifteen, entitled "An act to provide for the construction and equipment of the Mohansic State Hospital at Yorktown and the necessary buildings in connection therewith, and making an appropriation therefor," in relation to providing for the construction of a trunk sewer.

Date of introduction January 31; referred to Committee on Finance; died in Senate.

SLATER. Senate bill, introductory No. 390; printed No. 533, entitled: An act to authorize the county of Westchester to issue bonds for the purpose of refunding certificates of indebtedness

heretofore issued to pay for an armory site, and to provide for the payment of such bonds.

Date of introduction February 2; ordered to third reading and referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and restored to third reading February 10; amended February 10; passed February 21. Assembly record.—Received from the Senate February 23; ordered to third reading February 23; passed February 23. Record after passage.—Transmitted to Governor February 24; chapter No. 18.

SLATER. Senate bill, introductory No. 414; printed No. 1142, entitled: An act to amend the penal law, in relation to placing injurious substances on roads.

Date of introduction February 4; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 16; amended March 16; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Codes; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 321.

SLATER. Senate bill, introductory No. 415; printed No. 434, entitled: An act to amend chapter three hundred and sixty-one of the laws of nineteen hundred and nine, entitled "An act relating to the repaving of streets and highways in the city of Mount Vernon which have once been paved at the expense of abutting property, in whole or in part, and authorizing such city to raise money therefor by the issue of bonds," in relation to increasing the amount of such bonds.

Date of introduction February 4; referred to Committee on Affairs of Cities; died in Senate.

SLATER. Senate bill, introductory No. 452; printed No. 881, entitled: An act to amend the civil service law, in relation to examinations for offices or positions heretofore transferred from the exempt to the competitive class in the state service.

Date of introduction February 8; referred to committee on Civil Service; amended and recommitted March 3; died in Senate.

SLATER. Senate bill, introductory No. 516; printed No. 545, entitled: An act to abolish the Pelham board of sewage disposal works and to transfer to the town board of such town the care and maintenance of such sewage disposal works.

Date of introduction February 10; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; ordered to third reading March 1; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on third reading, March 22; passed March 22. Record after passage.—Transmitted to Governor March 23; chapter No. 113.

SLATER. Senate bill, introductory No. 517; printed No. 838; Assembly printed No. 1948, entitled: An act to amend the town law, in relation to fires.

Date of introduction February 10; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; ordered to third reading March 1; amended March 1; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Internal Affairs; amended March 10; committee discharged and ordered to third reading March 23; passed March 23 (S. Pr. No. 838); reconsidered and restored to third reading March 29 (A. Pr. No. 1338); ordered reprinted March 29; passed April 6. In Senate.—Assembly amendments concurred in April 10. Record after passage.—Transmitted to Governor April 12; chapter No. 226.

SLATER. Senate bill, introductory No. 554; printed No. 1271, entitled: An act to provide for a public wharf or dock in the village of Port Chester.

Date of introduction February 16; referred to Committee on Affairs of Villages; reported favorably and referred to the Com-

mittee of the Whole March 22; amended March 22; ordered to third reading March 28; passed March 30. Assembly record.—Received from the Senate March 31; referred to the Committee on Affairs of Villages; committee discharged and substituted for Assembly bill, same title, on third reading, April 3; passed April 3. Record after passage.—Transmitted to Governor April 5; chapter No. 221.

SLATER. Senate bill, introductory No. 555; printed No. 1574, entitled: An act to amend chapter eight hundred and eighteen of the laws of eighteen hundred and sixty-eight, entitled “An act to incorporate the village of Port Chester,” in relation to the powers of the board of trustees, generally.

Date of introduction February 16; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 24; ordered to third reading March 1; passed March 6 (Pr. No. 585). Assembly record.—Received from the Senate March 7; referred to the Committee on Affairs of Villages; reported favorably and ordered to second reading March 9; ordered to third reading March 10; passed March 14. Record after passage.—Transmitted to Governor March 15; recalled March 24; reconsidered, amended and restored to third reading March 27; amended April 3; repassed April 10. In Assembly, repassed April 11; retransmitted to Governor April 13; chapter No. 265.

SLATER. Senate bill, introductory No. 556; printed No. 586, entitled: An act to repeal chapter five hundred and thirteen of the laws of nineteen hundred and eleven, entitled “An act to legalize the acts and proceedings of the board of trustees of the village of Port Chester in contracting for and authorizing the determination of the amount of unpaid taxes and assessments and for establishing and putting into effect improved methods of accounting for such village, to legalize the services performed under such contract or in connection therewith, and to authorize the board of trustees to make payment therefor if able to agree upon the amount due, and otherwise, to authorize the maintenance of an action to determine such amount.”

Date of introduction February 16; referred to Committee on the Judiciary; died in Senate.

SLATER. Senate bill, introductory No. 557; printed No. 709, entitled: An act to amend the general business law, in relation to interest on loans secured by mortgages upon real estate in cities of the first or second class.

Date of introduction February 16; referred to Committee on the Judiciary; amended and recommitted February 23; died in Senate.

SLATER. Senate bill, introductory No. 652; printed No. 688, entitled: An act in relation to issuing bonds to pay for repaving Columbus avenue in the city of Mount Vernon.

Date of introduction February 23; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 15; recommitted March 21; died in Senate.

SLATER. Senate bill, introductory No. 653; printed No. 689, entitled: An act to authorize the board of directors or trustees of the Kensico cemetery to execute a grant of land to the town of Mount Pleasant in Westchester county and state of New York for the purpose of laying out and constructing a highway thereon, and to authorize the town of Mount Pleasant in Westchester county and the state of New York to accept said grant and use said land for highway purposes.

Date of introduction February 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 9; Assembly bill, same title, substituted March 9; passed March 14 (A. Pr. No. 870); chapter No. 76.

SLATER. Senate bill, introductory No. 676; printed No. 719, entitled: An act to amend the town law, in relation to power of town boards to borrow money.

Date of introduction February 24; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; re-

ported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 15. Assembly record.—Received from the Senate March 20; referred to the Committee on Internal Affairs; committee discharged and ordered to third reading March 20; passed March 20. Record after passage.—Transmitted to Governor March 21; chapter No. 81.

SLATER. Senate bill, introductory No. 706; printed No. 159, entitled: An act to amend the village law, in relation to removal and disposal of rubbish.

Date of introduction February 28; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 8; ordered to third reading March 9; passed March 13. Assembly record.—Received from the Senate March 14; referred to the Committee on Affairs of Villages; committee discharged and substituted for Assembly bill, same title, on third reading, March 22; passed March 22. Record after passage.—Transmitted to Governor March 23; chapter No. 114.

SLATER. Senate bill, introductory No. 707; printed No. 760, entitled: An act to amend chapter three hundred and fifty-six of the laws of nineteen hundred and fifteen, entitled "An act to incorporate the city of White Plains," in relation to the annual estimate and tax budgets and to the levy and collection of taxes.

Date of introduction February 28; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; Assembly bill, same title, substituted March 17; passed March 21 (A. Pr. No. 1327); chapter No. 167.

SLATER. Senate bill, introductory No. 804; printed No. 883, entitled: An act to amend chapter six hundred and forty-six of the laws of nineteen hundred and five, entitled "An act to provide for the construction and maintenance of a sanitary trunk sewer and sanitary outlet sewer in the county of Westchester, and to provide means for the payment therefor," in relation to the time of the annual tax levy.

Date of introduction March 6; ordered to third reading and referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and restored to third reading March 7; Assembly bill, same title, substituted and passed March 13 (A. Pr. No. 1178); chapter No. 44.

SLATER Senate bill, introductory No. 806; printed No. 885, entitled: An act to amend the domestic relations law, in relation to the adoption of children.

Date of introduction March 6; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on General Laws; committee discharged and substituted for Assembly bill, same title, on third reading, April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 453.

SLATER Senate bill, introductory No. 838; printed No. 932, entitled: An act to provide for the assessment of property and the collection of taxes and assessments in the several towns of Westchester county, and in the special tax and school districts in such towns, also providing for the sale and transfer of tax liens for such unpaid taxes and assessments, and for the foreclosure of such transfers of tax liens.

Date of introduction March 7; referred to Committee on Taxation and Retrenchment; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on third reading, March 28; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 105.

SLATER Senate bill, introductory No. 839; printed No. 920, entitled: An act to fix a fiscal year for all offices and departments of the county of Westchester.

Date of introduction March 7; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on third reading, March 27; passed March 27. Record after passage.—Transmitted to Governor March 28; chapter No. 124.

SLATER. Senate bill, introductory No. 855; printed No. 940, entitled: An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," in relation to penalty for nonpayment of taxes and assessments.

Date of introduction March 8; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Mayor of Mount Vernon April 14; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 476.

SLATER. Senate bill, introductory No. 898; printed No. 1335, entitled: An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," in relation generally to the city court of Mount Vernon.

Date of introduction March 10; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 23; amended March 23; ordered to third reading March 28; passed March 30. Assembly record.—Received from the Senate March 31; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Mayor of Mount Vernon April 7; returned from Mayor accepted April 15; transmitted to Governor April 17; chapter No. 310.

SLATER. Senate bill, introductory No. 899; printed No. 1006, entitled: An act in relation to issuing bonds to pay for repaving Columbus avenue in the city of Mount Vernon.

Date of introduction March 10; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Mayor of Mount Vernon April 7; returned from Mayor accepted April 15; transmitted to Governor April 17; chapter No. 311.

SLATER. Senate bill, introductory No. 900; printed No. 1007, entitled: An act to authorize the city of Mount Vernon to borrow money by the issue of bonds, for the purpose of meeting temporary deficiencies.

Date of introduction March 10; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on second reading, March 23; ordered to third reading March 23; passed March 23. Record after passage.—Transmitted to Mayor of Mount Vernon March 24; returned from Mayor accepted April 1; transmitted to Governor April 4; chapter No. 133.

SLATER. Senate bill, introductory No. 901; printed No. 1381, entitled: An act to amend chapter three hundred and sixty-one of the laws of nineteen hundred and nine, entitled "An act relating to the repaving of streets and highways in the city of Mount Vernon which have once been paved at the expense of abutting property, in whole or in part, and authorizing such city to raise money therefor by the issue of bonds," in relation to increasing the amount of such bonds.

Date of introduction March 10; referred to Committee on Affairs of Cities; reported favorably and referred to the Com-

mittee of the Whole March 23; ordered to third reading March 24; amended March 27; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Mayor of Mount Vernon April 14; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 477.

SLATER. Senate bill, introductory No. 914; printed No. 1692, entitled: An act to amend the military law, in relation to a military training commission and to military and disciplinary training and making an appropriation therefor.

Date of introduction March 13; referred to Committee on Finance; amended April 7; reported favorably and ordered to third reading April 11; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 20; chapter No. 566.

SLATER. Senate bill, introductory No. 982; printed No. 1112, entitled: An act to legalize and validate the proposition submitted and adopted at a special election held in the village of Mount Kisco on the thirtieth day of June, nineteen hundred and fourteen, to authorize the issuance and sale of the bonds of said village, in the amount of three thousand dollars, to pay the cost and improvement to Mill street, in said village, and the acts and proceedings of the board of trustees heretofore taken, pursuant thereto, and to authorize the issuance and sale of said bonds.

Date of introduction March 16; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 28; Assembly bill, same title, substituted March 29; passed April 3 (A. Pr. No. 1448); chapter No. 213.

SLATER. Senate bill, introductory No. 1020; printed No. 1367, entitled: An act to amend chapter one hundred and seventeen of the laws of eighteen hundred and eighty-three, entitled "An act to amend, consolidate and revise the charter of the

village of Peekskill and the several acts amendatory thereof," as amended by chapter three hundred and six of the laws of nineteen hundred and two, is hereby amended to read as follows, relative to village elections.

Date of introduction March 17; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; amended March 24; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Villages; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 263.

SLATER. Senate bill, introductory No. 1021; printed No. 1153, entitled: An act to amend chapter one hundred and seventeen of the laws of eighteen hundred and eighty-three, entitled "An act to amend, consolidate and revise the charter of the village of Peekskill, and the several acts amendatory thereof." in relation to dividing awards for street widening damages into annual payments.

Date of introduction March 17; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 28. Assembly record.—Received from the Senate March 29; referred to the Committee on Affairs of Villages; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 277.

SLATER. Senate bill, introductory No. 1078; printed No. 1222, entitled: An act to amend the tax law, in relation to exemptions in certain counties.

Date of introduction March 21; referred to Committee on Taxation and Retrenchment; died in Senate.

SLATER. Senate bill, introductory No. 1082; printed No. 1713, entitled: An act to amend the real property law, in relation to apportionment of rents, annuities, dividends and other payments.

Date of introduction March 22; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; amended April 10; passed April 14. Assembly record.—**Received from the State** April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—**Transmitted to Governor** April 20; chapter No. 313.

SLATER. Senate bill, introductory No. 1083; printed No. 1621, entitled: An act to amend the penal law, in relation to the application and effect of the provisions relating to attorneys.

Date of introduction March 22; referred to Committee on Codes; reported favorably and ordered to third reading April 5; amended April 5; recommitted April 14; died in Senate.

SLATER. Senate bill, introductory No. 1084; printed No. 1232, entitled: An act to amend the code of criminal procedure, in relation to the binding out of disorderly persons in the county of Westchester.

Date of introduction March 22; referred to Committee on Codes; reported favorably and ordered to third reading April 5; Assembly bill, same title, substituted and passed April 10 (A. Pr. No. 1975); chapter No. 240.

SLATER. Senate bill, introductory No. 1085; printed No. 1620, entitled: An act to amend the code of criminal procedure, in relation to commitments in Westchester county.

Date of introduction March 22; referred to Committee on Codes; reported favorably and ordered to third reading April 5; amended April 5; Assembly bill, same title, substituted and passed April 10 (A. Pr. No. 1974); chapter No. 243.

SLATER. Senate bill, introductory No. 1086; printed No. 1234, entitled: An act to create the office of commissioner of charities and corrections in the county of Westchester, and to prescribe the powers and duties of such office.

Date of introduction March 22; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30;

ordered to third reading March 31; Assembly bill, same title, substituted April 3; passed April 10 (A. Pr. No. 1707); chapter No. 242.

SLATER. Senate bill, introductory No. 1087; printed No. 1235, entitled: An act to provide for the management and maintenance of a penitentiary and workhouse in the county of Westchester.

Date of introduction March 22; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; Assembly bill, same title, substituted April 3; passed April 10 (A. Pr. No. 1708); chapter No. 236.

SLATER. Senate bill, introductory No. 1088; printed No. 1236, entitled: An act to authorize the county of Westchester to issue bonds to pay indebtedness arising from the construction and maintenance of sewers in the Bronx valley sanitary sewer district, and to provide for the payment of such bonds.

Date of introduction March 22; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Internal Affairs; returned from Assembly dead.

SLATER. Senate bill, introductory No. 1092; printed No. 1825, entitled: An act to amend the town law, in relation to the establishment and maintenance of sewer systems outside of incorporated cities and villages.

Date of introduction March 22; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 12; amended April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 20;

passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 593.

SLATER. Senate bill, introductory No. 1093; printed No. 241, entitled: An act to amend the town law, in relation to sidewalks.

Date of introduction March 22; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Internal Affairs; returned from Assembly dead.

SLATER. Senate bill, introductory No. 1141; printed No. 1299, entitled: An act to amend chapter four hundred and fifty-two of the laws of nineteen hundred and eight, entitled "An act to supplement the general laws relating to the government of the city of Yonkers, and to revise and consolidate the local laws relating thereto," in relation to the assessment and collection of taxes in such city.

Date of introduction March 23; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Cities; committee discharged and ordered to third reading April 5; passed April 5. Record after passage.—Transmitted to Mayor of Yonkers April 6; transmitted to Governor April 20; accepted by the city; vetoed by Governor.

SLATER. Senate bill, introductory No. 1366; printed No. 1683, entitled: An act to amend the village law, in relation to the appointment of a receiver of village taxes, and in relation to providing an additional remedy for purchases of land at village tax sales to certain villages.

Date of introduction April 7; ordered to third reading April 7; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Villages; re-

ported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 556.

SLATER. Senate bill, introductory No. 1368; printed No. 1699, entitled: An act to amend the education law, in relation to course of instruction in physical training and discipline in the schools of the state.

Date of introduction April 8; referred to Committee on Public Education; referred to Committee on Finance April 10; reported favorably and ordered to third reading April 11; Assembly bill same title, substituted April 12; passed April 19 (A. Pr. No. 1990); chapter No. 567.

SLATER. Senate bill, introductory No. 1397; printed No. 1764, entitled: An act to amend the town law, in relation to the compensation of justices of the peace for services rendered in criminal cases and proceedings.

Date of introduction April 11; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

SLATER. Senate bill, introductory No. 1398; printed No. 1765, entitled: An act authorizing the town of Bedford in the county of Westchester to enter into a contract, or agreement, with the city of New York and the village of Mount Kisco, to provide for the disposal of sewerage of that part of said town of Bedford adjacent to the village of Mount Kisco, and to authorize the board of said town of Bedford to construct such sewer and to provide for the method and manner of the payment therefor.

Date of introduction April 11; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

SLATER. Senate bill, introductory No. 1401; printed No. 1768, entitled: An act to amend chapter five hundred and ninety-four of the laws of nineteen hundred and seven, entitled "An act to provide for preserving the waters of the Bronx river from pollution."

ution; creating a reservation of the lands on either side of the river; authorizing the taking of lands for that purpose and providing for the payment thereof, and appointing a commission to carry out the purposes of the act," in relation to the purchase and condemnation of lands and payment therefor under the authority of said act.

Date of introduction April 11; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayors of New York, Mount Vernon, Yonkers, White Plains and New Rochelle; transmitted to Governor; returned from Mayors accepted (no action by New Rochelle); chapter No. 599.

SLATER. Senate bill, introductory No. 1434; printed No. 1851, entitled: An act to amend the public service commissions law, in relation to decisions as to rates, fares and charges, and the review thereof.

Date of introduction April 13; ordered to third reading and referred to Committee on Public Service; reported favorably and referred to Committee of the Whole April 19; died in Senate.

SLATER. Senate bill, introductory No. 1443; printed No. 1878, entitled: An act to amend the tax law, in relation to exemptions.

Date of introduction April 14; referred to Committee on Taxation and Retrenchment; died in Senate.

SPRING. Senate bill, introductory No. 229; printed No. 713, entitled: An act to amend the Dunkirk city charter, generally.

Date of introduction January 24; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 23; amended February 23; ordered to third reading March 1; passed March 6. Assembly record.—

Received from the Senate March 7; referred to the Committee on Affairs of Cities; returned from Assembly dead.

SPRING. Senate bill, introductory No. 230; printed No. 230, entitled: An act to provide for the establishment of a fish hatchery in the city of Dunkirk, and making an appropriation therefor.

Date of introduction January 24; referred to Committee on Finance; reported favorably and ordered to third reading April 13; passed April 17. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 632.

SPRING. Senate bill, introductory No. 231; printed No. 231, entitled: An act to authorize the city of Dunkirk to borrow money by the issue of bonds, for the purpose of taking up and retiring outstanding overdue sewer and paving bonds, deficiency bonds, interest warrants, and certificates of indebtedness.

Date of introduction January 24; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading March 1; Assembly bill, same title, substituted and passed March 23 (A. Pr. No. 240); chapter No. 183.

SPRING. Senate bill, introductory No. 232; printed No. 232, entitled: An act to amend the labor law, in relation to standard specifications for boilers.

Date of introduction January 24; referred to Committee on Labor and Industries; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Labor and Industries; returned from Assembly dead.

SPRING. Senate bill, introductory No. 343; printed No. 346, entitled: An act to amend the general business law, in

relation to prohibiting imposition of tax or fee for keeping, selling or purchasing petroleum oil or its products or derivatives.

Date of introduction January 31; referred to Committee on the Judiciary; died in Senate.

SPRING. Senate bill, introductory No. 344; printed No. 347, entitled: An act to amend the election law, in relation to special enrollment of certain voters.

Date of introduction January 31; referred to Committee on the Judiciary; died in Senate.

SPRING. Senate bill, introductory No. 345; printed No. 348, entitled: An act to amend the election law, in relation to primary districts in third class cities.

Date of introduction January 31; referred to Committee on the Judiciary; died in Senate.

SPRING. Senate bill, introductory No. 362; printed No. 370, entitled: An act to amend the Dunkirk city charter, in relation to improvement of Central avenue, apportioning the expense thereof and authorizing the issuance of bonds by the city in payment therefor.

Date of introduction February 1; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading March 1; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on Affairs of Cities; committee discharged and ordered to third reading April 5; passed April 5. Record after passage.—Transmitted to Mayor of Dunkirk April 6; returned from Mayor accepted April 13; transmitted to Governor April 14; chapter No. 279.

SPRING. Senate bill, introductory No. 395; printed No. 404, entitled: An act to amend the tax law, in relation to certain exemptions.

Date of introduction February 2; referred to Committee on Taxation and Retrenchment; died in Senate.

SPRING. Senate bill, introductory No. 401; printed No. 417. entitled: An act to legalize, ratify and confirm the issuance and sale of certain bonds of the village of Silver Creek to pay the cost and expense of improving Central avenue and Park place in said village.

Date of introduction February 3; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading March 1; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on Affairs of Villages; returned from Assembly dead.

SPRING. Senate bill, introductory No. 511; printed No. 540. entitled: An act to amend the labor law, in relation to factories.

Date of introduction February 10; referred to Committee on Labor and Industries; reported favorably and referred to the Committee of the Whole March 2; Assembly bill, same title, substituted March 8; passed March 9 (A. Pr. No. 668); chapter No. 62.

SPRING. Senate bill, introductory No. 618; printed No. 650. entitled: An act to legalize, ratify and confirm the issuance of bonds of the village of Gowanda, New York, to defray the expense of constructing and improving certain streets in said village.

Date of introduction February 21; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; Assembly bill, same title, substituted and passed March 21 (A. Pr. No. 876); chapter No. 101.

SPRING. Senate bill, introductory No. 619; printed No. 1672, entitled: An act to amend the general business law, in relation to amount of discount which can be charged by banking institutions.

Date of introduction February 21; referred to Committee on Banks; reported favorably and referred to the Committee of the Whole March 15; amended April 6; ordered to third reading April 13; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Banks; returned from Assembly dead.

SPRING. Senate bill, introductory No. 620; printed No. 652, entitled: An act to amend the town law, in relation to accounts of supervisors.

Date of introduction February 21; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 15. Assembly record.—Received from the Senate March 20; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 347.

SPRING. Senate bill, introductory No. 621; printed No. 653, entitled: An act to provide compensation to owners of property abutting on the highway leading from the Cattaraugus Indian reservation to the village of Irving for damages arising from the building of a dyke upon the highway and raising the grade thereof.

Date of introduction February 21; referred to Committee on Finance; died in Senate.

SPRING. Senate bill, introductory No. 622; printed No. 654, entitled: An act to amend the charter of the village of Fredonia, in relation to the erection and equipment of a library building and authorizing the village to borrow money therefor.

Date of introduction February 21; referred to Committee on Affairs of Villages; died in Senate.

SPRING. Senate bill, introductory No. 623; printed No. 655, entitled: An act to provide for the submission of a proposition to the voters of Dunkirk union free school district of Dunkirk, for the construction of a public school building in the first ward of Dunkirk, and, if such proposition is adopted, authorizing the issue of bonds to provide for the purchase of a site or additional land and the erection of such building.

Date of introduction February 21; referred to Committee on Affairs of Cities; died in Senate.

SPRING. Senate bill, introductory No. 624; printed No. 656, entitled: An act to amend the judiciary law, in relation to the

appointment and compensation of official referees by the appellate division of the supreme court in the third and fourth judicial departments.

Date of introduction February 21; referred to Committee on the Judiciary; died in Senate.

SPRING. Senate bill, introductory No. 625; printed No. 657, entitled: An act to amend the code of civil procedure, in relation to the appointment of deputy clerks of surrogates' courts.

Date of introduction February 21; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Codes; returned from Assembly dead.

SPRING. Senate bill, introductory No. 626; printed No. 658, entitled: An act to amend the tax law, in relation to sales by county treasurers for unpaid taxes and redemption of lands.

Date of introduction February 21; referred to Committee on Taxation and Retrenchment; died in Senate.

SPRING. Senate bill, introductory No. 636; printed No. 672, entitled: An act to amend the public health law, in relation to eligibility to dental examinations.

Date of introduction February 22; referred to Committee on Public Health; died in Senate.

SPRING. Senate bill, introductory No. 666; printed No. 1226, entitled: An act to amend the labor law, in relation to public works.

Date of introduction February 23; referred to Committee on Labor and Industries; reported favorably and referred to the Committee of the Whole March 21; amended March 21; ordered to third reading March 23; passed March 28. Assembly record.—Received from the Senate March 28; ordered to third reading March 28; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 152.

SPRING. Senate bill, introductory No. 677; printed No. 720, entitled: An act to amend the penal law, in relation to hours of labor.

Date of introduction February 24; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 23; ordered to third reading March 28; Assembly bill, same title, substituted and passed March 29 (A. Pr. No. 1207); chapter No. 151.

SPRING. Senate bill, introductory No. 737; printed No. 790, entitled: An act to amend the election law, in relation to designation petitions in cities of the third class.

Date of introduction February 28; referred to Committee on the Judiciary; died in Senate.

SPRING. Senate bill, introductory No. 738; printed No. 791, entitled: An act to amend the general cities law, in relation to licenses to operate moving picture apparatus.

Date of introduction February 28; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Affairs of Cities; returned from Assembly dead.

SPRING. Senate bill, introductory No. 739; printed No. 792, entitled: An act to amend the conservation law, in relation to open season for blue pike and Sauger pike.

Date of introduction February 28; referred to Committee on Conservation; died in Senate.

SPRING. Senate bill, introductory No. 940; printed No. 1052, entitled: An act to amend the tax law, in relation to exemptions of moneys deposited in savings banks.

Date of introduction March 14; referred to Committee on Taxation and Retrenchment; died in Senate.

SPRING. Senate bill, introductory No. 1018; printed No. 1150, entitled: An act to confer jurisdiction upon the court of

claims to hear, audit and determine the amount of damages suffered by the owners of property abutting on the highway leading from the Cattaraugus Indian reservation to the village of Irving, by reason of the building of a dyke upon the highway and raising the grade thereof, and to render judgment therefor.

Date of introduction March 17; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Claims; committee discharged and ordered to third reading April 5; passed April 5. Record after passage.—Transmitted to Governor April 7; recalled April 17; retransmitted to Governor April 18; vetoed.

SPRING. Senate bill, introductory No. 1032; printed No. 1174, entitled: An act to ratify and confirm the proceedings of the mayor, common council and assessors of the city of Olean, in paving certain sections of certain streets in said city and in assessing the cost and expense of such construction against the owners of the real property adjoining said sections of said streets and the tax rolls and warrants issued for the collection of such assessments and the issue and sale of the bonds of said city in anticipation of such assessments.

Date of introduction March 20; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Cities; committee discharged and ordered to third reading April 4; passed April 4. Record after passage.—Transmitted to Mayor of Olean April 5; returned from Mayor accepted April 15; transmitted to Governor April 17; chapter No. 531.

SPRING. Senate bill, introductory No. 1033; printed No. 1175, entitled: An act to amend the charter of the city of Salamanca, generally.

Date of introduction March 20; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 5; recommitted April 10; died in Senate.

SPRING. Senate bill, introductory No. 1100; printed No. 1248, entitled: An act to amend the labor law, in relation to fire alarm signal systems and fire drills.

Date of introduction March 22; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1101; printed No. 1249, entitled: An act to amend the labor law, in relation to the limitation of the powers of the commission affecting the reversal or alteration of orders which have been complied with.

Date of introduction March 22; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1102; printed No. 1250, entitled: An act to amend the labor law, in relation to required exits.

Date of introduction March 22; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1103; printed No. 1251, entitled: An act to amend the labor law, in relation to exterior screened stairways.

Date of introduction March 22; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1104; printed No. 1252, entitled: An act to amend the labor law, in relation to exterior enclosed fireproof stairways.

Date of introduction March 22; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1105; printed No. 1253, entitled: An act to amend the labor law, in relation to employment of female or male minors.

Date of introduction March 22; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1121; printed No. 1278, entitled: An act to amend the labor law, in relation to the officers and employees of the commission and their civil service classification.

Date of introduction March 22; referred to Committee on Civil Service; reported favorably and referred to the Committee of the Whole April 8; ordered to third reading April 13; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on the Judiciary; returned from Assembly dead.

SPRING. Senate bill, introductory No. 1122; printed No. 1279, entitled: An act to amend the labor law, in relation to the powers and duties of the industrial council.

Date of introduction March 22; referred to Committee on Civil Service; reported favorably and referred to the Committee of the Whole April 8; ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Labor and Industries; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

SPRING. Senate bill, introductory No. 1225; printed No. 1420, entitled: An act to legalize a special city election held in and for the city of Olean, Cattaraugus county, on the eighteenth day of June, nineteen hundred and fifteen, pursuant to chapter seven hundred and seventeen of the laws of nineteen hundred and fifteen, and the proceedings had thereafter in relation thereto, including bonds issued and contracts let thereunder.

Date of introduction March 27; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Mayor of Olean April 14; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 410.

SPRING. Senate bill, introductory No. 1247; printed No. 1446, entitled: An act to amend chapter five hundred and thirty-five of the laws of nineteen hundred and fifteen, entitled "An act to consolidate and revise the several acts relative to the city of Olean," generally.

Date of introduction March 29; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of Olean April 18; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 543.

SPRING. Senate bill, introductory No. 1281; printed No. 1732, entitled: An act to amend the judiciary law, in relation to the appointment and compensation of official referees by the appellate divisions of the supreme court in the first, second, third and fourth judicial departments.

Date of introduction March 30; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 10; amended April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 262.

SPRING. Senate bill, introductory No. 1339; printed No. 1634, entitled: An act directing the supervisor of the town of Perrysburg, Cattaraugus county, to pay over to the treasurer of the village of Perrysburg certain moneys collected in such village on account of highway taxes of such town.

Date of introduction April 6; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Villages; reported favorably and ordered to third reading April 17; passed April 17. Record

after passage.—Transmitted to Governor April 18; chapter No. 270.

SPRING. Senate bill, introductory No. 1352; printed No. 1661, entitled: An act to amend the insanity law, in relation to changing the name of the Long Island State Hospital, and the privileges of employees residing outside the state hospitals for the insane.

Date of introduction April 6; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 608.

SPRING. Senate bill, introductory No. 1402; printed No. 1782, entitled: An act to amend the labor law, in relation to sanitary certificates in bakeries.

Date of introduction April 11; referred to Committee on Labor and Industries; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Labor and Industries; reported favorably and ordered to second reading April 18; recommitted April 18; returned from Assembly dead.

SPRING. Senate bill, introductory No. 1414; printed No. 1801, entitled: An act to amend the labor law, in relation to sanitary certificates in bakeries.

Date of introduction April 12; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1415; printed No. 1802, entitled: An act to amend the labor law, in relation to responsibility for violations.

Date of introduction April 12; ordered to third reading and referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1429; printed No. 1820, entitled: An act to amend the labor law, in relation to factories.

Date of introduction April 12; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1430; printed No. 1821, entitled: An act to amend the labor law, in relation to the application of such chapter.

Date of introduction April 12; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1476; printed No. 1927, entitled: An act to amend the labor law, in relation to the bureau of mediation and arbitration.

Date of introduction April 19; referred to Committee on Labor and Industries; died in Senate.

SPRING. Senate bill, introductory No. 1477; printed No. 1930, entitled: An act to provide for annuities for old age.

Date of introduction April 20; referred to Committee on Finance; died in Senate.

STIVERS. Senate bill, introductory No. 249; printed No. 249, entitled: An act authorizing the adjutant-general of the state to return certain battle flags to the state of North Carolina.

Date of introduction January 25; referred to Committee on Finance; reported favorably and ordered to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; returned from Assembly dead.

STIVERS. Senate bill, introductory No. 326; printed No. 330, entitled: An act to amend the conservation law, relative to not taking game on certain public lands.

Date of introduction January 28; referred to Committee on Conservation; died in Senate.

STIVERS. Senate bill, introductory No. 370; printed No. 378, entitled: An act to authorize the city of Newburgh to issue

its bonds for the purpose of purchasing fire apparatus, and to authorize the raising of taxes to pay the principal and interest of such bonds.

Date of introduction February 1; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading February 24; passed February 28. Assembly record.—Received from the Senate February 29; referred to the Committee on Affairs of Cities; committee discharged and substituted for Assembly bill, same title, on third reading, March 8; passed March 8. Record after passage.—Transmitted to Mayor of Newburgh March 9; returned from Mayor accepted March 17; transmitted to Governor March 17; chapter No. 65.

STIVERS. Senate bill, introductory No. 409; printed No. 425, entitled: An act to amend the public health law, in relation to inspections and certificates of sanitary condition of slaughterhouses, creameries and kindred and allied establishments.

Date of introduction February 3; referred to Committee on Public Health; died in Senate.

STIVERS. Senate bill, introductory No. 410; printed No. 426, entitled: An act to amend the conservation law, in relation to the use of eel weirs.

Date of introduction February 3; referred to Committee on Conservation; died in Senate.

STIVERS. Senate bill, introductory No. 454; printed No. 474, entitled: An act to amend the railroad law, in relation to stops by locomotives and trains at grade crossings.

Date of introduction February 8; referred to Committee on Public Service; died in Senate.

STIVERS. Senate bill, introductory No. 481; printed No. 503, entitled: An act to amend the state boards and commissions law, in relation to creating the interstate bridge commission and defining its powers and duties.

Date of introduction February 9; referred to Committee on the Judiciary; reported favorably and referred to the Committee

of the Whole March 22; ordered to third reading March 24; passed March 28. Assembly record.—Received from the Senate March 29; referred to the Committee on the Judiciary; committee discharged and substituted for Assembly bill, same title, third reading, April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 506.

STIVERS. Senate bill, introductory No. 681; printed No. 1495, entitled: An act to supplement the general laws, relating to the government of the city of Newburgh, and to revise and consolidate the local laws relating thereto.

Date of introduction February 24; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 29; amended March 29; ordered to third reading April 3; passed April 10. Assembly record.—Received from the Senate April 10; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Mayor of Newburgh April 15; Transmitted to Governor April 20; returned from Mayor accepted; chapter No. 575.

STIVERS. Senate bill, introductory No. 716; printed No. 919, entitled: An act to amend chapter five hundred and seventy-two of the laws of nineteen hundred and two, entitled "An act to revise and amend an act to incorporate the city of Middletown, and the acts amendatory thereof," generally, and to repeal certain sections thereof.

Date of introduction February 28; referred to Committee on Affairs of Cities; amended March 6; reported favorably and referred to the Committee of the Whole March 15; Assembly bill, same title, substituted March 17; passed March 21 (A. Pr. No. 1325); chapter No. 200.

STIVERS. Senate bill, introductory No. 796; printed No. 1371, entitled: An act to amend the military law, in relation to compulsory service in the active militia.

Date of introduction March 2; referred to Committee on Military Affairs; amended and recommitted March 24; died in Senate.

STIVERS. Senate bill, introductory No. 797; printed No. 866, entitled: An act to amend the military law, in relation to eligibility for a commission in the naval militia.

Date of introduction March 2; referred to Committee on Military Affairs; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Military Affairs; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 538.

STIVERS. Senate bill, introductory No. 887; printed No. 1373, entitled: An act to amend the military law, in relation to composition and strength of the national guard, reserve officers, supernumerary officers, and privileges, prohibitions and penalties.

Date of introduction March 9; referred to Committee on Military Affairs; reported favorably and referred to the Committee of the Whole March 24; amended March 24; ordered to third reading March 28; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Military Affairs; returned from Assembly dead.

STIVERS. Senate bill, introductory No. 902; printed No. 1009, entitled: An act to amend the military law, in relation to privileges of members of a drill corps for national defense.

Date of introduction March 10; referred to Committee on Military Affairs; died in Senate.

STIVERS. Senate bill, introductory No. 908; printed No. 1018, entitled: An act to confer jurisdiction on the court of claims to hear, audit and determine the alleged claim of Patrick Walsh, his heirs or assigns, against the state for damages alleged to have been sustained by him and to render judgment therefor.

Date of introduction March 13; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Claims; reported favorably and

ordered to third reading April 18; passed April 18. Record after passage.— Transmitted to Governor April 20; vetoed.

STIVERS. Senate bill, introductory No. 1205; printed No. 1401, entitled: An act to transfer the site at Beekman, Dutchess county, heretofore acquired by the state for a farm and industrial colony for tramps and vagrants, to the armory commission for military purposes, and abolishing the board of managers of such colony.

Date of introduction March 27; referred to Committee on Military Affairs; reported favorably and referred to Committee on Finance March 30; died in Senate.

STIVERS. Senate bill, introductory No. 1250; printed No. 1449, entitled: An act to provide for the acquisition of certain ordnance and equipment for military aviation and making an appropriation therefor.

Date of introduction March 29; referred to Committee on Finance; died in Senate.

STIVERS. Senate bill, introductory No. 1274; printed No. 1775, entitled: An act to amend the military law, in relation to staff departments, the hospital corps and commissions for officers.

Date of introduction March 30; referred to Committee on Military Affairs; reported favorably and ordered to third reading April 11; amended April 11; passed April 15. Assembly record.— Received from the Senate April 15; referred to the Committee on Military Affairs; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.— Transmitted to Governor April 20; chapter No. 473.

STIVERS. Senate bill, introductory No. 1280; printed No. 1504, entitled: An act to amend the village law, in relation to accounts of police justice and policemen of services for the town and county.

Date of introduction March 30; referred to Committee on Affairs of Villages; died in Senate.

STIVERS. Senate bill, introductory No. 1308; printed No. 1584. entitled: An act to amend the penal law, in relation to trespassing.

Date of introduction April 3; referred to Committee on Codes; reported favorably and ordered to third reading April 18; died in Senate.

STIVERS. Senate bill, introductory No. 1315; printed No. 1584. entitled: An act to amend the military law, in relation to the signal corps.

Date of introduction April 4; referred to Committee on Military Affairs; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Military Affairs; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 474.

STIVERS. Senate bill, introductory No. 1316; printed No. 1790. entitled: An act to amend the military law, in relation to the reserve militia.

Date of introduction April 5; referred to Committee on Military Affairs; reported favorably and ordered to third reading April 12; amended April 12; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Military Affairs; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 568.

STIVERS. Senate bill, introductory No. 1317; printed No. 1589. entitled: An act to amend the military law, in relation to the naval militia.

Date of introduction April 5; referred to Committee on Military Affairs; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Military Affairs; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 565.

STIVERS. Senate bill, introductory No. 1344; printed No. 1814, entitled: An act to amend the military law, in relation to composition and strength of the national guard, and privileges, prohibitions and penalties.

Date of introduction April 6; referred to Committee on Military Affairs; reported favorably and ordered to third reading April 11; amended April 11, April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Military Affairs; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 564.

STIVERS. Senate bill, introductory No. 1362; printed No. 1679, entitled: An act to amend the military law, in relation to armories.

Date of introduction April 7; referred to Committee on Military Affairs; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Military Affairs; reported favorably and ordered to third reading April 16; passed April 16. Record after passage.—Transmitted to Governor April 20; chapter No. 475.

STIVERS. Senate bill, introductory No. 1378; printed No. 1720, entitled: An act to amend the military law, in relation to brevet commissions.

Date of introduction April 10; referred to Committee on Military Affairs; died in Senate.

SULLIVAN. Senate bill, introductory No. 100; printed No. 1329, entitled: An act to amend the Greater New York charter, in relation to ordinances regulating the use of streets.

Date of introduction January 10; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 23; amended March 23; ordered to third reading March 28; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading April 7; ordered to third reading April 17; passed April 17.

STIVERS. Senate bill, introductory
1564, entitled: An act to amend the
trespassing.

New York April
led from Mayor

Date of introduction April 3;
reported favorably and ordered
in Senate.

No. 550; printed No.
reater New York charter,

employees.

STIVERS. Senate
1584, entitled: An
the signal corps.

ry 15; referred to Committee on

Date of introduction bill, introductory No. 551; printed No.
ary Affairs; act to amend chapter five hundred and seventy-
April 6; passed of nineteen hundred and fifteen, entitled "An
Senate April and developing the reformatory and correctional
reported of workhouses, penitentiaries and reformatories under
April 20; providing for the sentence, commitment, parole, conditional
large and reapprehension of persons committed to such insti-
ons and for the establishment of a parole commission in such
ies." in relation to the presidency of the parole commission.

Date of introduction February 15; referred to Committee on
the Judiciary; reported favorably and referred to the Committee
of the Whole March 15; ordered to third reading March 17;
passed March 21. Assembly record.—Received from the Senate
March 22; referred to the Committee on the Judiciary; returned
from Assembly dead.

THOMPSON, G. F. Senate bill, introductory No. 183;
printed No. 929, entitled: An act to amend an act entitled "An

act to extend the time for filing existing claims against the state
for compensation or damages for or on account of the appropri-
ation of property in connection with the construction of improved
canals and canal terminals, and giving the court of claims juris-
diction." in relation to the appropriation or use of rights and ease-
ments and the filing of notice of intention.

Date of introduction January 19; referred to Committee on
Judiciary; reported favorably and referred to the Committee
of the Whole February 9; amended February 9; ordered to third

reading March 6; amended March 7; passed March 14. Assembly record.—Received from the Senate March 15; referred to the Committee on the Judiciary; returned from Assembly dead.

THOMPSON, G. F. Senate bill, introductory No. 197; printed No. 197, entitled: An act for the protection of state reservation at Niagara.

Date of introduction January 20; referred to Committee on Conservation; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 198; printed No. 198, entitled: An act charter, in relation to authorizing the city of Niagara Falls to pass ordinances providing for the creation of residence and factory districts, in such city and to prohibit the location of a business, shop or factory in a residence district.

Date of introduction January 20; referred to Committee on Affairs of Cities; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 199; printed No. 199; Assembly printed No. 2107, entitled: An act to amend the railroad law, in relation to protecting the health of the inhabitants of the borough of Manhattan, city of New York, from the injurious effect of smoke, odors and noises caused by the operation of railroad trains drawn by steam engines.

Date of introduction January 20; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; passed March 29; motion to reconsider tabled March 29; motion to reconsider lost April 6. Assembly record.—Received from the Senate April 10; referred to the Committee on Railroads; amended April 15; reported favorably and ordered to third reading April 19; passed April 19. In Senate.—Assembly amendments concurred in April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city.

THOMPSON, G. F. Senate bill, introductory No. 200; printed No. 200, entitled: An act to amend the highway law, in

relation to the construction of highways to connect with improved streets in cities of the third class.

Date of introduction January 20; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 201; printed No. 1165, entitled: An act to amend section four of the legislative law, relative to punishment for contempts.

Date of introduction January 20; referred to Committee on the Judiciary; reported favorably and ordered to third reading March 15; amended March 17; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on the Judiciary; returned from Assembly dead.

THOMPSON, G. F. Senate bill, introductory No. 202; printed No. 202, entitled: An act to amend section sixty of the legislative law, relative to legislative committees.

Date of introduction January 20; referred to Committee on the Judiciary; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 327; printed No. 331, entitled: An act directing channels of abandoned canal feeders in the village of Medina to be filled and making an appropriation therefor.

Date of introduction January 28; referred to Committee on Finance; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 659; printed No. 1014, entitled: An act to provide a charter for the city of Niagara Falls.

Date of introduction February 23; referred to Committee on Affairs of Cities; amended and recommitted March 8; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 697; printed No. 748, entitled: An act making an appropriation for constructing a concrete culvert over the Eighteen Mile creek in the city of Lockport.

Date of introduction February 25; referred to Committee on Finance; reported favorably and ordered to third reading April 14; Assembly bill, same title, substituted and passed April 20 (A. Pr. No. 737); vetoed.

THOMPSON, G. F. Senate bill, introductory No. 698; printed No. 749, entitled: An act directing channels of abandoned canal feeders in the village of Medina to be filled, and making an appropriation therefor.

Date of introduction February 25; referred to Committee on Finance; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 699; printed No. 750, entitled: An act to amend the lien law, in relation to labor performed by quarrymen.

Date of introduction February 25; referred to Committee on the Judiciary; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 761; printed No. 1283, entitled: An act to provide for the creation of a commission to confer with the governors and legislators of adjoining states in securing the enactment of reciprocal legislation for the examination of witnesses whose testimony is required by legislative committees or commissions, and making an appropriation therefor.

Date of introduction February 29; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading March 15; amended March 21; passed March 30. Assembly record.—Received from the Senate March 31; referred to the Committee on Ways and Means; returned from Assembly dead.

THOMPSON, G. F. Senate bill, introductory No. 832; printed No. 911, entitled: An act to amend chapter seven hundred and fifty-two of the laws of nineteen hundred and seven, entitled "An act to revise the charter of the city of North Tonawanda," and acts amendatory thereof and supplemental thereto, in relation to officers, their appointment and terms of office, pow-

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

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2. Once the problem is identified, the next step is to define the objectives and goals of the project. This helps to clarify what needs to be achieved and provides a clear direction for the team.

3. The third step is to develop a plan or strategy to address the problem. This involves breaking down the problem into smaller, manageable tasks and determining the resources needed to complete each task.

4. The fourth step is to implement the plan. This involves putting the strategy into action and monitoring progress to ensure that the project is on track.

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1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in financial matters.

2. The second part outlines the various methods and tools used to collect and analyze data. This includes the use of surveys, interviews, and statistical analysis to gather information and draw conclusions.

3. The third part focuses on the ethical considerations surrounding data collection and analysis. It highlights the need to protect individual privacy and ensure that data is used responsibly and for its intended purpose.

4. The fourth part discusses the challenges and limitations of data analysis. It acknowledges that while data can provide valuable insights, it is not always perfect and may be subject to various biases and errors.

5. The fifth part concludes the document by summarizing the key findings and recommendations. It stresses the importance of ongoing monitoring and evaluation to ensure that the data remains relevant and useful over time.

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5. Finally, the fifth step is to evaluate the results of the project. This involves assessing the outcomes against the objectives and goals to determine the effectiveness of the intervention.

third reading April 14; passed April 15. Assembly record.— Received from the Senate April 15; referred to the Committee on Conservation; reported favorably and ordered to second reading April 18; stricken from calendar April 18; returned from Assembly dead.

THOMPSON, G. F. Senate bill, introductory No. 992; printed No. 1598, entitled: An act to amend the membership corporations law.

Date of introduction March 16; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; amended March 27; ordered to third reading March 30; amended April 5; passed April 14. Assembly record.— Received from the Senate April 18; referred to the Committee on the Judiciary; returned from Assembly dead.

THOMPSON, G. F. Senate bill, introductory No. 993; printed No. 1123, entitled: An act to amend the election law, to provide for nonpartisan municipal elections in cities.

Date of introduction March 16; referred to Committee on the Judiciary; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 1059; printed No. 1199, entitled: An act to authorize the custodians of primary records of the county of Niagara to correct and complete the enrollment and enrollment books in one election district of said county.

Date of introduction March 20; ordered to third reading and referred to Committee on the Judiciary; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 1113; printed No. 1261, entitled: An act to amend the labor law, in relation to one day rest in seven.

Date of introduction March 22; referred to Committee on Labor and Industries; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 1149; printed No. 1306, entitled: An act to amend chapter eight hun-

dred and seventy of the laws of nineteen hundred and eleven, entitled "An act to consolidate and revise the laws relating to the city of Lockport," in relation to designation of policemen as detective sergeants.

Date of introduction March 23; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Mayor of Lockport April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 432.

THOMPSON, G. F. Senate bill, introductory No. 1180; printed No. 1352, entitled: An act to amend section fifteen of chapter fifty-one of the laws of eighteen hundred and forty-seven, entitled: "An act in relation to the common schools in the city of Lockport," as heretofore amended, relating to the amount of tax which may be raised.

Date of introduction March 24; referred to Committee on Affairs of Cities; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 1328; printed No. 1602, entitled: An act to release to Fred Cowen all the right, title and interest of the people of the state of New York in and to certain real estate in the village of Medina, county of Orleans.

Date of introduction April 5; ordered to third reading and referred to Committee on the Judiciary; reported favorably and restored to third reading April 14; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 418.

THOMPSON, G. F. Senate bill, introductory No. 1363; printed No. 1680, entitled: An act to amend the liquor tax law, in relation to the salary of the special deputy commissioner in the county of Niagara.

Date of introduction April 7; referred to Committee on Taxation and Retrenchment; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 1364; printed No. 1681, entitled: An act to amend the code of civil procedure, in relation to injuries to property.

Date of introduction April 7; referred to Committee on Codes; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 1420; printed No. 1807, entitled: An act making appropriation to pay the increase of salary of the special deputy commissioner of excise for the county of Niagara as fixed by law.

Date of introduction April 12; referred to Committee on Finance; died in Senate.

THOMPSON, G. F. Senate bill, introductory No. 1421; printed No. 1808, entitled: An act to amend section fifteen of chapter fifty-one of the laws of eighteen hundred and forty-seven, entitled "An act in relation to the common schools in the city of Lockport," relating to the amount of tax which may be raised.

Date of introduction April 12; ordered to third reading April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of Lockport April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 431.

THOMPSON, G. F. Senate bill, introductory No. 1463; printed No. 1909, entitled: An act to validate, legalize and confirm the acts and proceedings of the common council and city officials of the city of Lockport relating to the abandonment, sale and conveyance of a portion of a street to the Niagara Textile Company, a corporation.

Date of introduction April 15; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the

Senate April 20; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of Lockport April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 430.

THOMPSON, G. L. Senate bill, introductory No. 107; printed No. 107, entitled: An act to amend the highway law, in relation to requiring the elimination of the glare in front lights on motor vehicles.

Date of introduction January 10; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 108; printed No. 108, entitled: An act to amend the county law, in relation to powers of boards of supervisors in certain counties with respect to public streets and highways and acquisition of lands.

Date of introduction January 10; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole January 27; ordered to third reading January 31; Assembly bill, same title, substituted and passed February 2 (A. Pr. No. 78); chapter No. 5.

THOMPSON, G. L. Senate bill, introductory No. 135; printed No. 135, entitled: An act to release to Anna Augusta Mitchell the right, title and interest and estate of the people of the state of New York in and to certain real estate in the village of Hempstead, town of Hempstead, county of Nassau.

Date of introduction January 12; referred to Committee on the Judiciary; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 147; printed No. 147, entitled: An act to amend the town law, in relation to submitting propositions by petition in certain towns.

Date of introduction January 17; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; re-

ported favorably and referred to the Committee of the Whole January 27; ordered to third reading January 31; passed February 2. Assembly record.—Received from the Senate February 8; referred to the Committee on Internal Affairs; returned from Assembly dead.

THOMPSON, G. L. Senate bill, introductory No. 148; printed No. 148, entitled: An act to legalize and confirm the acts and proceedings of the board of elections and board of supervisors of the county of Nassau, in relation to the publication of election notices in the year nineteen hundred and eleven, and authorizing payment of claim presented therefor.

Date of introduction January 17; referred to Committee on the Judiciary; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 157; printed No. 312, entitled: An act to amend the town law, in relation to presiding officer of the town board.

Date of introduction January 18; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole January 27; amended January 27; ordered to third reading January 31; passed February 8. Assembly record.—Received from the Senate February 10; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading March 8; ordered to third reading March 9; passed March 13. Record after passage.—Transmitted to Governor March 14; chapter No. 59.

THOMPSON, G. L. Senate bill, introductory No. 158; printed No. 158, entitled: An act to amend the highway law, in relation to town superintendents of highways.

Date of introduction January 18; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 10; ordered to third reading February 21; passed February 28. Assembly record.—Received from the Senate March 1; referred to the Committee on the Judiciary; committee dis-

ten hundred and ten, entitled
Receiver of taxes in the town of
Dorchester, defining the powers and
duties and his compensation," in relation

January 19; referred to Committee on
Counties and Public Highways, re-
ferred to the Committee of the Whole
State.

Senate bill, introductory No. 213;
entitled: An act to amend the insanity law,
and to increase the salaries of certain employees in state hospitals.
Introduced January 24; referred to Committee on
Hospitals; reported favorably and ordered to third reading
April 12; passed April 19. Assembly rec-
eived from the Senate April 19; referred to the Com-
mittee on Ways and Means; reported favorably and ordered to
pass April 20; passed April 20. Record after pas-
sage transmitted to Governor April 20; not signed by

THOMPSON, G. L. Senate bill, introductory No. 214;
No. 214, entitled: An act to amend the civil service law,
and to provide for retiring veterans and pensioning them upon half

Date of introduction January 24; referred to Committee on
Civil Service; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 245;
printed No. 245, entitled: An act to provide for securing lands
and rights of way for a proposed canal and appurtenances, to be
constructed by the federal government on Long Island, and for
aiding such construction, and making an appropriation therefor.

Date of introduction January 25; referred to Committee on
Finance; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 265;
printed No. 659, entitled: An act to amend the village law, in
relation to the election of fire company officers and delegates.

charged and ordered to third reading March 6; passed March 6. Record after passage.—Transmitted to Governor March 7; chapter No. 47.

THOMPSON, G. L. Senate bill, introductory No. 159; printed No. 159, entitled: An act to amend the highway law, in relation to the appointment of a town superintendent of highways in the town of Brookhaven, Suffolk county.

Date of introduction January 18; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 10; ordered to third reading February 21; recommitted February 29; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 176; printed No. 411, entitled: An act to amend the town law, in relation to employment of clerks by the assessors of the towns in the county of Suffolk.

Date of introduction January 19; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole January 27; ordered to third reading January 31; amended February 2; Assembly bill, same title, substituted and passed February 22 (A. Pr. No. 690); chapter No. 21.

THOMPSON, G. L. Senate bill, introductory No. 177; printed No. 177, entitled: An act to amend chapter eighteen of the laws of nineteen hundred and eleven, entitled "An act to establish the office of receiver of taxes of the town of Babylon, in the county of Suffolk, defining the powers and duties of the receiver and fixing his compensation," in relation to collection of taxes and fees for service of notices.

Date of introduction January 19; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole January 27; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 178; printed No. 178, entitled: An act to amend chapter one hundred

and thirty-eight of the laws of nineteen hundred and ten, entitled "An act to establish the office of receiver of taxes in the town of Huntington, in the county of Suffolk, defining the powers and duties of the receiver and fixing his compensation," in relation to collection of taxes.

Date of introduction January 19; referred to Committee on Internal Affairs of Towns, Counties and Public Highways, reported favorably and referred to the Committee of the Whole January 27; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 213; printed No. 1835, entitled: An act to amend the insanity law, in relation to the wages of certain employees in state hospitals.

Date of introduction January 24; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; amended April 12; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

THOMPSON, G. L. Senate bill, introductory No. 214; printed No. 214, entitled: An act to amend the civil service law, in relation to retiring veterans and pensioning them upon half pay.

Date of introduction January 24; referred to Committee on Civil Service; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 245; printed No. 245, entitled: An act to provide for securing lands and rights of way for a proposed canal and appurtenances, to be constructed by the federal government on Long Island, and for aiding such construction, and making an appropriation therefor.

Date of introduction January 25; referred to Committee on Finance; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 265; printed No. 659, entitled: An act to amend the village law, in relation to the election of fire company officers and delegates.

Date of introduction January 26; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole February 2; ordered to third reading February 3; amended February 8, February 21; passed February 29. Assembly record.—Received from the Senate March 1; ordered to third reading March 1; passed March 1. Record after passage.—Transmitted to Governor March 2; chapter No. 25.

THOMPSON, G. L. Senate bill, introductory No. 338; printed No. 342; Assembly printed No. 1502, entitled: An act authorizing the commissioners of the land office to grant to the trustees of the Kings Park Free library and the trustees of the fire department of the village of Kings Park certain lands to be used for the erection of a building to be used by the free library and by the fire department of such village.

Date of introduction January 31; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading March 1; passed March 6. Assembly record.—Received from the Senate March 7; referred to the Committee on Ways and Means; committee discharged and substituted for Assembly bill, same title, on second reading, March 15; amended March 15; ordered to third reading March 15; passed March 27. In Senate.—Assembly amendments concurred in March 29. Record after passage.—Transmitted to Governor March 31; chapter No. 141.

THOMPSON, G. L. Senate bill, introductory No. 352, printed No. 355, entitled: An act to amend the membership corporations law, relative to fire corporations.

Date of introduction January 31; referred to Committee on the Judiciary; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 353; printed No. 356, entitled: An act to amend an act entitled "An act to authorize the town of Hempstead in Nassau county to improve its waterways and to borrow money and to issue certificates of indebtedness therefor," in relation to amount which can be borrowed and the payment thereof.

Date of introduction January 31; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; Assembly bill, same title, substituted February 28; passed March 6 (A. Pr. No. 739); chapter No. 46.

THOMPSON, G. L. Senate bill, introductory No. 367; printed No. 375, entitled: An act to amend the membership corporations law, by providing for the incorporation of exempt volunteer firemen's associations.

Date of introduction February 1; referred to Committee on the Judiciary; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 368; printed No. 376, entitled: An act to provide for the construction of a sea wall at Orient, Suffolk county, and making an appropriation therefor.

Date of introduction February 1; referred to Committee on Finance; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 379; printed No. 388, entitled: An act to amend the conservation law, in relation to the taking of lobsters in certain waters.

Date of introduction February 2; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole February 21; ordered to third reading March 1; Assembly bill, same title, substituted March 2; passed March 6 (A. Pr. No. 560); recalled from Governor; repassed March 27 (A. Pr. No. 1595); chapter No. 170.

THOMPSON, G. L. Senate bill, introductory No. 380; printed No. 740, entitled: An act to authorize the county of Nassau to issue bonds to pay its proportion of the principal of the bonded indebtedness of the county of Queens.

Date of introduction February 2; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; amended February 24; ordered to third reading March 1; passed March 6. Assembly record.—Received from

the Senate March 7; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading March 23; ordered to third reading March 24; passed March 29. Record after passage.—Transmitted to Governor, March 30; chapter No. 153.

THOMPSON, G. L. Senate bill, introductory No. 402; printed No. 418, entitled: An act to amend the code of civil procedure, in relation to issuance of executions upon judgments of justices of the peace, where the office of the justice becomes vacant.

Date of introduction February 3; referred to Committee on Codes; reported favorably and ordered to third reading April 5; Assembly bill, same title, substituted and passed April 10 (A. Pr. No. 561); chapter No. 448.

THOMPSON, G. L. Senate bill, introductory No. 424; printed No. 1003, entitled: An act to amend the town law, in relation to submission of propositions to town meeting.

Date of introduction February 7; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 9; amended March 9; ordered to third reading March 13; passed March 20. Assembly record.—Received from the Senate March 21; substituted for Assembly bill, same title, on third reading, March 21; passed March 21. Record after passage.—Transmitted to Governor March 22; chapter No. 79.

THOMPSON, G. L. Senate bill, introductory No. 499; printed No. 521, entitled: An act to amend chapter seventy-six of the laws of eighteen hundred and sixty-nine, entitled "An act in confirmation of the vote of the electors of the town of Hempstead, Queens county, in relation to the public cemetery, and extending the grounds of said cemetery," generally.

Date of introduction February 9; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; re-committed April 5; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 500; printed No. 522, entitled: An act to establish a normal and training school on Long Island, in the county of Nassau or the county of Suffolk, and making an appropriation for the necessary building or buildings.

Date of introduction February 9; referred to Committee on Finance; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 501; printed No. 523, entitled: An act to amend the town law, in relation to authorizing water districts to acquire water works.

Date of introduction February 9; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 502; printed No. 524, entitled: An act to enable the towns of Oyster Bay and North Hempstead in the county of Nassau to provide the trustees of the Jones fund for the support of the poor of the said towns, with the necessary funds to enable them to conduct the joint almshouse of the said towns.

Date of introduction February 9; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 9; recommitted March 13; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 503; printed No. 525, entitled: An act to amend the town law, in relation to park districts in towns of certain counties.

Date of introduction February 9; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 634; printed No. 670, entitled: An act to amend the town law, in relation to compensation of town auditors in certain towns.

Date of introduction February 22; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; re-

ported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; Assembly bill, same title, substituted March 16; passed March 20 (A. Pr. No. 872); chapter No. 100.

THOMPSON, G. L. Senate bill, introductory No. 654; printed No. 690, entitled: An act to enable the town of Southold, in the county of Suffolk, to provide for the extermination of mosquitos in the unincorporated village of Orient, at the expense of the taxpayers of such village.

Date of introduction February 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 9; Assembly bill, same title, substituted March 13; passed March 14 (A. Pr. No. 1133); recalled from Governor, repassed April 6 (A. Pr. No. 1902); chapter No. 246.

THOMPSON, G. L. Senate bill, introductory No. 655; printed No. 691, entitled: An act to amend the county law, in relation to election of coroners in Nassau county.

Date of introduction February 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; Assembly bill, same title, substituted and passed March 21 (A. Pr. No. 776); chapter No. 87.

THOMPSON, G. L. Senate bill, introductory No. 656; printed No. 692, entitled: An act to amend the highway law, in relation to the construction, improvement and repair of bridges over streams and waterways intersecting state or county highways and county roads.

Date of introduction February 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 657; printed No. 693, entitled: An act to amend the membership corporations law, in relation to cemeteries in Nassau county.

Date of introduction February 23; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 28; re-committed March 30; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 658; printed No. 694, entitled: An act to amend the town law, in relation to powers, duties and proceedings of town officers of certain towns and providing penalty for violation.

Date of introduction February 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 665; printed No. 701, entitled: An act to legalize, validate and confirm the election of a town superintendent of highways in the town of Brookhaven, Suffolk county.

Date of introduction February 23; ordered to third reading and referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and restored to third reading February 24; passed February 29. Assembly record.—Received from the Senate March 1; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on third reading, March 8; passed March 8. Record after passage.—Transmitted to Governor March 8; chapter No. 48.

THOMPSON, G. L. Senate bill, introductory No. 682; printed No. 724; Assembly printed No. 1977, entitled: An act to amend the education law, in relation to the law library at Riverhead.

Date of introduction February 24; referred to Committee on Public Education; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 15. Assembly record.—Received from the Senate March 20; referred to the Committee on Public Education; reported favorably and ordered to second reading March 22; amended March 22; ordered to third reading March 28; amended

March 30; passed April 6. In Senate.— Assembly amendments concurred in April 10. Record after passage.— Transmitted to Governor April 12; chapter No. 231.

THOMPSON, G. L. Senate bill, introductory No. 781; printed No. 850, entitled: An act to reappropriate the unexpended balance of moneys appropriated by chapter two hundred and forty-seven of the laws of nineteen hundred and fourteen to improve the channel of Three Mile harbor in the town of East Hampton.

Date of introduction March 2; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole March 15; ordered to third reading March 17; Assembly bill, same title, substituted and passed March 21 (A. Pr. No. 1122); chapter No. 88.

THOMPSON, G. L. Senate bill, introductory No. 782; printed No. 851, entitled: An act to amend the membership corporations law, in relation to the prohibition of new corporations in certain counties.

Date of introduction March 2; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; Assembly bill, same title, substituted March 29; passed March 30 (A. Pr. No. 1555); chapter No. 177.

THOMPSON, G. L. Senate bill, introductory No. 783; printed No. 852, entitled: An act to amend the real property law, in relation to the filing of maps.

Date of introduction March 2; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; Assembly bill, same title, substituted March 29; passed March 30 (A. Pr. No. 1121); chapter No. 143.

THOMPSON, G. L. Senate bill, introductory No. 790; printed No. 1143; Assembly printed No. 2048, entitled: An act to amend the tax law, in relation to collector's returns of unpaid taxes.

Date of introduction March 2; referred to Committee on Taxation and Retrenchment; reported favorably and referred to the Committee of the Whole March 16; amended March 16; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Taxation and Retrenchment; amended April 10; committee discharged and substituted for Assembly bill, same title, on third reading, April 17; passed April 17. In Senate.—Assembly amendments concurred in April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 332.

THOMPSON, G. L. Senate bill, introductory No. 807; printed No. 1423, entitled: An act to amend chapter one hundred and thirty-one of the laws of nineteen hundred and two, entitled “An act to make the office of sheriff of Suffolk county a salaried office in part, and to regulate the management thereof,” generally, and repealing certain sections thereof.

Date of introduction March 6; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; amended March 27; Assembly bill, same title, substituted April 6; passed April 10 (A. Pr. No. 1878); chapter No. 583.

THOMPSON, G. L. Senate bill, introductory No. 811; printed No. 890, entitled: An act in relation to providing for a county auditor in the county of Suffolk.

Date of introduction March 6; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; Assembly bill, same title, substituted and passed March 23 (A. Pr. No. 1162); chapter No. 107.

THOMPSON, G. L. Senate bill, introductory No. 854; printed No. 1582, entitled: An act relating to the preparation of assessment-rolls for the townships and tax districts therein in the county of Nassau, and the collection of taxes in such towns and tax districts, and to repeal certain local acts and parts of acts relating to assessments and taxation in such county.

Date of introduction March 8; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; amended April 3; Assembly bill, same title, substituted April 11; passed April 15 (S. Pr. No. 1785); chapter No. 541.

THOMPSON, G. L. Senate bill, introductory No. 909; printed No. 1019, entitled: An act to amend chapter five hundred and three of the laws of eighteen hundred and fifty-seven, entitled "An act ceding to the town of Islip, in the county of Suffolk, the interest of the people of the state of New York, in certain lands within the boundaries of said town," in relation to abolishing the offices of the trustees of such town and conferring their powers on the town board.

Date of introduction March 13; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; ordered to third reading March 28; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 131.

THOMPSON, G. L. Senate bill, introductory No. 915; printed No. 1025, entitled: An act to amend the town law, in relation to authorizing the employment of clerks and other assistants for the town business, in certain towns.

Date of introduction March 13; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on second reading, March 28; ordered to third reading March 28; passed March 29. Record after passage.—Transmitted to Governor March 30; chapter No. 157.

THOMPSON, G. L. Senate bill, introductory No. 980; printed No. 1110, entitled: An act to amend the town law, in relation to the expenses of town officers.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1001; printed No. 1862, entitled: An act to amend the county law, in relation to the county judge and surrogate of Nassau county and their salaries.

Date of introduction March 16; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 28; amended April 3, April 13; Assembly bill, same title, substituted April 14; passed April 19 (A. Pr. No. 2035); chapter No. 382.

THOMPSON, G. L. Senate bill, introductory No. 1052; printed No. 1265, entitled: An act for the establishment of county mosquito extermination commissions in counties having a population of less than two hundred thousand adjacent to a city of the first class, having a population of over three million, and to define their powers and duties and to provide for the payment of their expenses and disbursements.

Date of introduction March 20; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; recommitted April 19; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1053; printed No. 1344, entitled: An act to exclude from the city of New York that territory known as the fifth ward of the borough of Queens of the city of New York, and incorporate the same under the corporate name of Rockaway City, and to provide for the government thereof.

Date of introduction March 20; referred to Committee on Affairs of Cities; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1062; printed No. 1517, entitled: An act to amend the town law, in relation to term of office of town superintendent of highways of towns in certain counties.

Date of introduction March 21; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 346.

THOMPSON, G. L. Senate bill, introductory No. 1063; printed No. 1622, entitled: An act to amend the town law, in relation to sale of surplus water by a water district.

Date of introduction March 21; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 5; amended April 5; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Internal Affairs; returned from Assembly dead.

THOMPSON, G. L. Senate bill, introductory No. 1067; printed No. 1211, entitled: An act to amend the insanity law, in relation to maintenance of assistant stewards.

Date of introduction March 21; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; not signed by Governor.

THOMPSON, G. L. Senate bill, introductory No. 1068; printed No. 1212, entitled: An act to amend the tax law, in relation to redemption of real estate sold for taxes.

Date of introduction March 21; referred to Committee on Taxation and Retrenchment; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1069; printed No. 1571, entitled: An act to amend the education law, in relation to duties of district clerk.

Date of introduction March 21; referred to Committee on Public Education; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; amended April 3; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Public Education; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 314.

THOMPSON, G. L. Senate bill, introductory No. 1070; printed No. 1214, entitled: An act to amend the highway law, in relation to expenditures for highway purposes in the county of Suffolk and the audit of accounts therefor.

Date of introduction March 21; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 5; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading April 20; recommitted April 20; returned from Assembly dead.

THOMPSON, G. L. Senate bill, introductory No. 1089; printed No. 1759, entitled: An act to amend the conservation law, in relation to scallops.

Date of introduction March 22; referred to Committee on Conservation; reported favorably and ordered to third reading April 5; amended April 5, April 11; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Conservation; committee discharged and substituted for Assembly bill, same title, on third reading, April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

THOMPSON, G. L. Senate bill, introductory No. 1150; printed No. 1307, entitled: An act to amend the highway law, in relation to assessment of village property for highway purposes.

Date of introduction March 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Internal Affairs; returned from Assembly dead.

THOMPSON, G. L. Senate bill, introductory No. 1155; printed 1312, entitled: An act to amend the public health law, in relation to the establishment of mosquito extermination commissions in certain counties, to define their powers and duties and to provide for the payment of their expenses and disbursements.

Date of introduction March 23; referred to Committee on Public Health; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1183; printed No. 1355, entitled: An act to amend the village law, in relation to nonresidents of a village becoming members of the fire department.

Date of introduction March 24; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 31; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Affairs of Villages; committee discharged and ordered to third reading April 7; passed April 7. Record after passage.—Transmitted to Governor April 8; chapter No. 248.

THOMPSON, G. L. Senate bill, introductory No. 1190; printed No. 1362, entitled: An act to amend the insanity law, in relation to the retirement of employees of state hospitals for the insane.

Date of introduction March 24; ordered to third reading March 24; passed April 5. Assembly record.—Received from the Sen-

ate April 6; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.— Transmitted to Governor April 14; chapter No. 607.

THOMPSON, G. L. Senate bill, introductory No. 1201; printed No. 1397, entitled: An act to provide for the building of a bridge across Shelter Island sound between the towns of Shelter Island and Southampton in the county of Suffolk, and making an appropriation therefor.

Date of introduction March 27; referred to Committee on Finance; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1202; printed No. 1398, entitled: An act to amend the conservation law, in relation to use of oyster tongs in South bay, Suffolk county.

Date of introduction March 27; referred to Committee on Conservation; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1203; printed No. 1399, entitled: An act to amend the town law, in relation to submission of a proposition for the publication of town affairs.

Date of introduction March 27; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1204; printed No. 1400, entitled: An act to make more definite and certain the boundaries defined in the petition to extend westerly the boundaries of the incorporated village of Patchogue, New York, which is now on file with the clerk of Suffolk county, New York.

Date of introduction March 27; referred to Committee on Affairs of Villages; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1235; printed No. 1843, entitled: An act to amend the town law, in relation to formation of water districts in towns.

Date of introduction March 28; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 13; amended April 13; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Internal Affairs; returned from Assembly dead.

THOMPSON, G. L. Senate bill, introductory No. 1275; printed No. 1499, entitled: An act to amend the insanity law, in relation to powers of the commission to dispose of unused machinery.

Date of introduction March 30; referred to Committee on Finance; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 349.

THOMPSON, G. L. Senate bill, introductory No. 1276; printed No. 1500, entitled: An act to amend the public service commissions law, in relation to ferry companies.

Date of introduction March 30; referred to Committee on Public Service; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1277; printed No. 1501, entitled: An act to amend the code of civil procedure, in relation to certain actions for the recovery of public property.

Date of introduction March 30; referred to Committee on Codes; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1319; printed No. 1591, entitled: An act to amend the civil service law, in relation to retention and promotion in office.

Date of introduction April 5; referred to Committee on Civil Service; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1322; printed No. 1594, entitled: An act making an appropriation for maintenance of the New York State School of Agriculture on Long Island.

Date of introduction April 5; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 11; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 20; chapter No. 639.

THOMPSON, G. L. Senate bill, introductory No. 1405; printed No. 1792, entitled: An act to amend the town law, in relation to the compensation of constables.

Date of introduction April 12; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1406; printed No. 1793, entitled: An act to amend the county law, in relation to the publication of the acts of the boards of supervisors.

Date of introduction April 12; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

THOMPSON, G. L. Senate bill, introductory No. 1409; printed No. 1796, entitled: An act providing for the further improvement of Aersconk creek, Senix river, and Orchard Neck creek, in the county of Suffolk, and making an appropriation therefor.

Date of introduction April 12; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 15; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

TOWNER. Senate bill, introductory No. 217; printed No. 217, entitled: An act to amend the education law, in relation to taxing certain state lands in the town of Beekman, Dutchess county, for school purposes.

Date of introduction January 24; referred to Committee on Public Education; died in Senate.

TOWNER. Senate bill, introductory No. 300; printed No. 301, entitled: An act to amend the railroad law, in relation to construction of roadways on grade crossings.

Date of introduction January 27; referred to Committee on Public Service; died in Senate.

TOWNER. Senate bill, introductory No. 307; printed No. 308, entitled: An act to amend the tax law, in relation to apportionment of assessments of special franchises of water companies among school districts.

Date of introduction January 27; referred to Committee on Taxation and Retrenchment; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 20. Assembly record.—Received from the Senate March 21; referred to the Committee on Taxation and Retrenchment; reported favorably and ordered to second reading March 24; ordered to third reading March 27; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 134.

TOWNER. Senate bill, introductory No. 363; printed No. 930, entitled: An act to amend chapter four hundred and twenty-five of the laws of eighteen hundred and ninety-six, entitled "An act to amend the charter of the city of Poughkeepsie," generally.

Date of introduction February 1; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 1; amended March 1; ordered to third reading March 6; amended March 7; passed March 14. Assembly record.—Received from the Senate March 15; referred to the Committee on Affairs of Cities; returned from Assembly dead.

TOWNER. Senate bill, introductory No. 425; printed No. 444, entitled: An act to establish a state normal and training school at Millerton, Dutchess county, and making an appropriation therefor.

Date of introduction February 7; referred to Committee on Finance; died in Senate.

TOWNER. Senate bill, introductory No. 426; printed No. 445, entitled: An act to amend chapter three hundred and three of the laws of nineteen hundred and fifteen, entitled "An act to make the office of county clerk of Dutchess county a salaried office and regulating the management of said office and fixing the salary of said clerk and his assistants," in relation to the fees to be charged by said clerk.

Date of introduction February 7; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 27; referred to the Committee on Internal Affairs; committee discharged and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; chapter No. 225.

TOWNER. Senate bill, introductory No. 577; printed No. 609, entitled: An act to amend the lien law, in relation to liens of garage keepers and automobile repairmen.

Date of introduction February 21; referred to Committee on the Judiciary; died in Senate.

TOWNER. Senate bill, introductory No. 578; printed No. 610, entitled: An act to amend the code of civil procedure, in relation to stenographer's fees.

Date of introduction February 21; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 15. Assembly record.—Received from the Senate March 20; referred to the Committee on Codes; reported favorably and ordered to third reading April 19; passed April 19. Record after

passage.—Transmitted to Governor April 20; not signed by Governor.

TOWNER. Senate bill, introductory No. 579; printed No. 611, entitled: An act authorizing the repair or reconstruction of the bridge known as Drake's drawbridge over Wappinger's creek at New Hamburg, Dutchess county, and making an appropriation therefor.

Date of introduction February 21; referred to Committee on Finance; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; returned from Assembly dead.

TOWNER. Senate bill, introductory No. 740; printed No. 793, entitled: An act to amend the insurance law, in relation to the contingency reserves of domestic life insurance corporations.

Date of introduction February 28; referred to Committee on Insurance; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 23; ordered to third reading March 23; passed March 27. Record after passage.—Transmitted to Governor March 28; chapter No. 119.

TOWNER. Senate bill, introductory No. 741; printed No. 1141, entitled: An act to amend the insurance law, in relation to the total expenditures of life insurance companies and the premium loadings on policies issued by companies transacting business on the mutual plan.

Date of introduction February 28; referred to Committee on Insurance; reported favorably and referred to the Committee of the Whole March 16; amended March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 23; ordered to third reading March 23; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 120.

TOWNER. Senate bill, introductory No. 784; printed No. 853, entitled: An act to amend the penal law, in relation to possession of concealed weapons as presumptive evidence of intent to use the same.

Date of introduction March 2; referred to Committee on Codes; died in Senate.

TOWNER. Senate bill, introductory No. 794; printed No. 863, entitled: An act to amend the penal law, in relation to unloading and feeding animals in transportation.

Date of introduction March 2; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 15. Assembly record.—Received from the Senate March 20; referred to the Committee on Codes; returned from Assembly dead.

TOWNER. Senate bill, introductory No. 891; printed No. 986, entitled: An act to amend section one hundred of the insurance law, in relation to investments of domestic life insurance corporations.

Date of introduction March 9; referred to Committee on Insurance; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Insurance; committee discharged and substituted for Assembly bill, same title, on third reading, March 28; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 121.

TOWNER. Senate bill, introductory No. 959; printed No. 1078, entitled: An act to reorganize the commission on new prisons and to define its powers and duties, to provide for the construction of a cell block or blocks at Sing Sing prison, and making an appropriation for such purpose and for the compensation and expenses of the commission.

Date of introduction March 15; referred to Committee on Finance; died in Senate.

TOWNER. Senate bill, introductory No. 960; printed No. 1532; Assembly printed No. 2106, entitled: An act to reorganize the commission on new prisons and to define its powers and duties, to provide for the construction of a new prison plant, and for the construction of new buildings at Sing Sing prison, and making appropriations for such purpose and for the compensation and expenses of the commission.

Date of introduction March 15; referred to Committee on Finance; reported favorably and ordered to third reading March 30; amended March 30; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Ways and Means; amended April 15; reported favorably and ordered to third reading April 20; passed April 20. In Senate.—Assembly amendments concurred in April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

TOWNER. Senate bill, introductory No. 998; printed No. 1483, entitled: An act to amend the agricultural law, in relation to samples from milk sold or purchased on the milk fat basis.

Date of introduction March 16; referred to Committee on Agriculture; reported favorably and ordered to third reading March 29; amended March 29; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Agriculture; reported favorably and ordered to third reading April 10; passed April 10. Record after passage.—Transmitted to Governor April 13; chapter No. 219.

TOWNER. Senate bill, introductory No. 1010; printed No. 1139, entitled: An act to amend the conservation law, in relation to the killing of deer found damaging crops.

Date of introduction March 16; referred to Committee on Conservation; died in Senate.

TOWNER. Senate bill, introductory No. 1017; printed No. 1149, entitled: An act to amend the judiciary law, in relation to appointment of stenographers of the supreme court for the ninth judicial district.

Date of introduction March 17; referred to Committee on the Judiciary; reported favorably and referred to the Committee of

the Whole March 27; ordered to third reading March 28; Assembly bill, same title, substituted March 29; passed March 30 (A. Pr. No. 1358); chapter No. 128.

TOWNER. Senate bill, introductory No. 1064; printed No. 1208, entitled: An act to amend the public health law, in relation to admission to examination of candidate for permission to practice as veterinarian.

Date of introduction March 21; referred to Committee on Public Health; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Public Health; reported favorably and ordered to second reading April 19; recommitted April 19; returned from Assembly dead.

TOWNER. Senate bill, introductory No. 1073; printed No. 1217, entitled: An act to amend the general municipal law, in relation to appropriation for administration expense of boards of child welfare and the relief of widowed mothers.

Date of introduction March 21; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

TOWNER. Senate bill, introductory No. 1074; printed No. 1218, entitled: An act to amend the conservation law, in relation to closed season for pheasants in the county of Putnam.

Date of introduction March 21; referred to Committee on Conservation; reported favorably and ordered to third reading April 17; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Conservation; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

TOWNER. Senate bill, introductory No. 1095; printed No. 1243; Assembly printed No. 2029, entitled: An act to amend section one hundred and seventy of the insurance law, with respect to the powers of title guaranty corporations.

Date of introduction March 22; referred to Committee on Insurance; reported favorably and ordered to third reading March 29; passed April 3. Assembly record.— Received from the Senate April 4; referred to the Committee on Insurance; amended April 7; reported favorably and ordered to second reading April 12; recommitted April 12; returned from Assembly dead.

TOWNER. Senate bill, introductory No. 1251; printed No. 1450, entitled: An act to amend the insurance law, in relation to dividends of mutual employers' liability and workmen's compensation corporations, and in relation to the authorization of foreign mutual insurance corporations.

Date of introduction March 29; referred to Committee on Insurance; reported favorably and ordered to third reading April 12; Assembly bill, same title, substituted April 14; passed April 19 (A. Pr. No. 1929); chapter No. 393.

TOWNER. Senate bill, introductory No. 1314; printed No. 1583, entitled: An act to establish a board of child welfare for the county of Dutchess.

Date of introduction April 4; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 17; passed April 18. Assembly record.— Received from the Senate April 18; referred to the Committee on Internal Affairs; returned from Assembly dead.

TOWNER. Senate bill, introductory No. 1336; printed No. 1610, entitled: An act to amend the last paragraph of subdivision five of section four hundred and eighty-six of the penal law, being chapter eighty-eight of the laws of nineteen hundred and nine, as amended by chapter one hundred and sixty-nine of the laws of nineteen hundred and twelve, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws."

Date of introduction April 5; referred to Committee on Codes; died in Senate.

TOWNER. Senate bill, introductory No. 1444; printed No. 1879, entitled: An act to amend the highway law, in relation to establishing a new state route in the county of Columbia.

Date of introduction April 14; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

TOWNER. Senate bill, introductory No. 1445; printed No. 1880, entitled: An act to amend the highway law, in relation to establishing a new state route in the county of Columbia.

Date of introduction April 14; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

WAGNER. Senate bill, introductory No. 58; printed No. 58, entitled: An act in relation to changing the location of the New York State Training School for Boys, and making an appropriation therefor.

Date of introduction January 5; referred to Committee on Finance; died in Senate.

WAGNER. Senate bill, introductory No. 59; printed No. 59, entitled: An act to amend the public health law, in relation to protecting the Croton watershed from pollution.

Date of introduction January 5; referred to Committee on Public Health; referred to Committee on Finance January 19; died in Senate.

WAGNER. Senate bill, introductory No. 60; printed No. 60, entitled: An act to abolish the Mohansic State Hospital, to provide for the sale of the site thereof and for the acquisition of a site for the establishment of a new state hospital for the insane, and making an appropriation therefor.

Date of introduction January 5; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; referred to Committee on Finance January 19; died in Senate.

WAGNER. Senate bill, introductory No. 193; printed No. 193, entitled: An act to amend the public health law, in relation

to protecting from pollution the watersheds used for the water supply of New York city.

Date of introduction January 19; referred to Committee on Public Health; died in Senate.

WAGNER. Senate bill, introductory No. 309; printed No. 310, entitled: An act to amend the election law, in relation to state members of national party committees.

Date of introduction January 27; referred to Committee on the Judiciary; died in Senate.

WAGNER. Senate bill, introductory No. 540; printed No. 569, entitled: An act to amend the labor law, in relation to the distribution of responsibility among the members of the industrial commission.

Date of introduction February 14; referred to Committee on Labor and Industries; died in Senate.

WAGNER. Senate bill, introductory No. 541; printed No. 570, entitled: An act to amend the penal law, in relation to punishment for violation of the provisions of the labor law, and repealing certain sections thereof.

Date of introduction February 14; referred to Committee on Codes; died in Senate.

WAGNER. Senate bill, introductory No. 542; printed No. 995, entitled: An act to amend the labor law by repealing certain provisions as to review by the industrial commission, review by the courts and limited review of the orders and rules of the commission.

Date of introduction February 14; referred to Committee on the Judiciary; amended and recommitted March 9; died in Senate.

WAGNER. Senate bill, introductory No. 543; printed No. 572, entitled: An act to amend the labor law, in relation to summary action by the industrial commission and the service of notices and orders.

Date of introduction February 14; referred to Committee on Labor and Industries; died in Senate.

WAGNER. Senate bill, introductory No. 544; printed No. 573, entitled: An act to amend the labor law by repealing certain provisions as to variations.

Date of introduction February 14; referred to Committee on Labor and Industries; died in Senate.

WAGNER. Senate bill, introductory No. 545; printed No. 574, entitled: An act to amend the labor law, in relation to meetings, hearings and sessions of the industrial commission, and its minutes and records.

Date of introduction February 14; referred to Committee on Labor and Industries; died in Senate.

WAGNER. Senate bill, introductory No. 553; printed No. 971, entitled: An act to amend the general business law, in relation to contracts for monopoly.

Date of introduction February 15; referred to Committee on the Judiciary; amended and recommitted March 8; died in Senate.

WAGNER. Senate bill, introductory No. 562; printed No. 592, entitled: An act to amend the personal property law, in relation to compelling trustees to reinvest trust funds in certain cases.

Date of introduction February 17; referred to Committee on the Judiciary; died in Senate.

WAGNER. Senate bill, introductory No. 563; printed No. 593, entitled: An act to amend chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," in relation to exemptions from taxation.

Date of introduction February 17; referred to Committee on Taxation and Retrenchment; died in Senate.

WAGNER. Senate bill, introductory No. 564; printed No. 594, entitled: An act to amend the labor law, in relation to one day of rest in seven.

Date of introduction February 17; referred to Committee on Labor and Industries; died in Senate.

WAGNER. Senate bill, introductory No. 583; printed No. 996, entitled: An act to amend chapter seven hundred and forty-six of the laws of nineteen hundred and eleven, entitled "An act making provision for issuing bonds for not to exceed nineteen million eight hundred thousand dollars for the purpose of furnishing proper terminals and facilities for barge canal terminals, including the acquisition and interchange of property therefor, with a view of improving and fostering the commerce of the state and providing for the submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and eleven," in relation to the sinking fund therein provided.

Date of introduction February 21; referred to Committee on Finance; amended and recommitted March 9; died in Senate.

WAGNER. Senate bill, introductory No. 584; printed No. 997, entitled: An act to amend chapter three hundred and ninety-one of the laws of nineteen hundred and nine, entitled "An act making provision for issuing bonds to the amount of not to exceed seven million dollars for the improvement of the Cayuga and Seneca canals, and providing for the submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and nine," in relation to the maintenance of the sinking fund therein provided.

Date of introduction February 21; referred to Committee on Finance; amended and recommitted March 9; died in Senate.

WAGNER. Senate bill, introductory No. 585; printed No. 998, entitled: An act to amend chapter one hundred and forty-seven of the laws of nineteen hundred and three, entitled "An act making provision for the issuing of bonds to the amount of one million dollars for the improvement of the Erie canal, Oswego

canal and Champlain canal, and providing for the submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and three," in relation to the maintenance of the sinking funds therein provided.

Date of introduction February 21; referred to Committee on Finance; amended and recommitted March 9; died in Senate.

WAGNER. Senate bill, introductory No. 586; printed No. 999, entitled: An act to amend chapter one hundred and thirty-nine of the laws of nineteen hundred and ten, entitled "An act providing for the issuing of bonds of the state to run for a period of fifty years in lieu of bonds heretofore authorized by chapter three hundred and ninety-one of the laws of nineteen hundred and nine and not issued," in relation to the sinking fund therein provided.

Date of introduction February 21; referred to Committee on Finance; amended and recommitted March 9; died in Senate.

WAGNER. Senate bill, introductory No. 640; printed No. 676, entitled: An act to amend the judiciary law, in relation to the appointment of official referees by the appellate division of the supreme court in the first and second judicial departments.

Date of introduction February 22; referred to Committee on the Judiciary; died in Senate.

WAGNER. Senate bill, introductory No. 680; printed No. 723, entitled: An act to amend chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," and to repeal certain sections of said chapter, in relation to state aid to towns for highway purposes.

Date of introduction February 24; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

WAGNER. Senate bill, introductory No. 847; printed No. 928, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article twelve of the constitution,

guaranteeing to cities and incorporated villages the right of municipal self-government and restricting the power of the legislature to the enactment of general laws in reference thereto.

Date of introduction March 7; referred to Committee on the Judiciary; died in Senate.

WAGNER. Senate bill, introductory No. 883; printed No. 1842, entitled: An act to amend the inferior criminal courts act of the city of New York, in relation to removal of charges of misdemeanor from the court of special sessions.

Date of introduction March 9; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole April 13; ordered to third reading April 13; amended April 13; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; not accepted by the city.

WAGNER. Senate bill, introductory No. 893; printed No. 1534, entitled: An act to amend the town law, in relation to fixing the amount and the time or manner of payment of town officers or employees, and the appointment of clerks, assistants and employees of town officers and town boards.

Date of introduction March 9; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; amended and recommitted March 30; died in Senate.

WAGNER. Senate bill, introductory No. 961; printed No. 1229, entitled: An act to amend the Greater New York charter so as to incorporate therein a new chapter to be known as chapter twelve-b and so as to create a bureau in the department of licenses of the city of New York to be known as the bureau of boiler inspection and so as to provide for the control of the inspection and operation of certain steam boilers in said city and for the licensing of engineers and firemen.

Date of introduction March 15; referred to Committee on Affairs of Cities; amended and recommitted March 21; died in Senate.

WAGNER. Senate bill, introductory No. 1075; printed No. 1219, entitled: An act to amend the election law, in relation to contests and judicial review.

Date of introduction March 21; referred to Committee on the Judiciary; died in Senate.

WAGNER. Senate bill, introductory No. 1094; printed No. 1242, entitled: An act to amend the education law, in relation to the support and maintenance of schools for teachers in the city of New York.

Date of introduction March 22; referred to Committee on Affairs of Cities; died in Senate.

WAGNER. Senate bill, introductory No. 1160; printed No. 1317, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article three of the constitution, in relation to living wages to be paid to women and children.

Date of introduction March 23; referred to Committee on the Judiciary; died in Senate.

WAGNER. Senate bill, introductory No. 1300; printed No. 1549, entitled: An act to amend the highway law, in relation to the establishment of state highway routes in counties not containing towns and appropriating money therefor.

Date of introduction March 31; referred to Committee on Finance; died in Senate.

WAGNER. Senate bill, introductory No. 1369; printed No. 1700, entitled: An act to amend chapter one hundred and ninety-one of the laws of eighteen hundred and sixty-nine, entitled "An act in relation to the Homoeopathic Medical College of the State of New York in New York city," and chapter five hundred and fifteen of the laws of eighteen hundred and eighty-seven, and chapter one hundred and fifty of the laws of nineteen hundred

and eight, supplemental thereto, in relation to the number of trustees of the New York Homoeopathic Medical College and Flower Hospital, and the amount of property it is authorized to hold.

Date of introduction April 8; referred to Committee on the Judiciary; died in Senate.

WAGNER. Senate bill, introductory No. 1370; printed No. 1701, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article three of the constitution, in relation to appropriations and state taxes.

Date of introduction April 8; referred to Committee on the Judiciary; died in Senate.

WAGNER. Senate bill, introductory No. 1456; printed No. 1895, entitled: An act to amend the general city law, in relation to the taxation of advertisements and the business of advertising.

Date of introduction April 14; ordered to third reading and referred to Committee on Affairs of Cities; died in Senate.

WALKER. Senate bill, introductory No. 238; printed No. 238, entitled: An act to amend the tax law.

Date of introduction January 24; referred to Committee on Taxation and Retrenchment; died in Senate.

WALKER. Senate bill, introductory No. 240; printed No. 240, entitled: An act to amend the Greater New York charter, by providing for a difference in the rate of taxation on the value of land wholly unimproved, and the rate on the difference between the value of the land with its improvements and the value of the land wholly unimproved.

Date of introduction January 24; referred to Committee on Affairs of Cities; died in Senate.

WALKER. Senate bill, introductory No. 301; printed No. 302, entitled: An act to amend the civil service law, in relation to the power of removal.

Date of introduction January 27; referred to Committee on Civil Service; died in Senate.

WALKER. Senate bill, introductory No. 302; printed No. 303, entitled: An act to amend the civil service law, in relation to the suspension and reinstatement of employees.

Date of introduction January 27; referred to Committee on Civil Service; died in Senate.

WALKER. Senate bill, introductory No. 328; printed No. 332, entitled: An act to amend the banking law, in relation to the collection of savings by philanthropic agencies.

Date of introduction January 28; referred to Committee on Banks; died in Senate.

WALKER. Senate bill, introductory No. 403; printed No. 419, entitled: An act to amend the penal law, in relation to discrimination against families with children.

Date of introduction February 3; referred to Committee on Codes; died in Senate.

WALKER. Senate bill, introductory No. 482; printed No. 504, entitled: An act to amend the insurance law, in relation to standard provisions for certain casualty policies.

Date of introduction February 9; referred to Committee on Insurance; died in Senate.

WALKER. Senate bill, introductory No. 512; printed No. 877, entitled: An act to amend the Greater New York charter by inserting provisions in relation to recording and indexing instruments affecting land in the city of New York, with reference to land maps for the several counties in the said city, and to repeal existing laws on said subject.

Date of introduction February 10; referred to Committee on Affairs of Cities; amended and recommitted March 2; died in Senate.

WALKER. Senate bill, introductory No. 513; printed No. 542, entitled: An act to amend the Greater New York charter, in relation to the surveyor and to tax maps and to repeal chapter five hundred and forty-two of the laws of eighteen hundred and

ninety-two, entitled "An act to provide for the establishment of the system of block tax assessment maps and records in the city of New York."

Date of introduction February 10; referred to Committee on Affairs of Cities; died in Senate.

WALKER. Senate bill, introductory No. 527; printed No. 1228, entitled: An act to amend the general business law, in relation to contracts and division of fees in employment agencies.

Date of introduction February 11; referred to Committee on the Judiciary; amended March 21; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on General Laws; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 587.

WALKER. Senate bill, introductory No. 528; printed No. 557, entitled: An act to amend the public health law, in relation to the use of saccharine.

Date of introduction February 11; referred to Committee on Public Health; reported favorably and referred to the Committee of the Whole April 10; ordered to third reading April 13; lost April 19; died in Senate.

WALKER. Senate bill, introductory No. 650; printed No. 686, entitled: An act to authorize the board of estimate and apportionment of the city of New York to inquire into, audit and cause the payment of the claim of The John H. Parker Company for work, labor, material and services rendered and furnished such city, and for expenses incurred, in relation to such work, labor and services.

Date of introduction February 23; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 13;

passed April 13. Record after passage.—Transmitted to Mayor of New York April 14; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 614.

WALKER. Senate bill, introductory No. 678; printed No. 721, entitled: An act to amend the Greater New York charter, relative to selling and conveying the right, title and interest of the city of New York in and to lands under water to upland owners.

Date of introduction February 24; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; recommitted April 11; died in Senate.

WALKER. Senate bill, introductory No. 692; printed No. 994, entitled: An act to amend the public health law, in relation to the manufacture of bread.

Date of introduction February 24; referred to Committee on Public Health; amended March 9; reported favorably and referred to the Committee of the Whole March 17; Assembly bill, same title, substituted March 17; lost April 17 (S. Pr. No. 1707).

WALKER. Senate bill, introductory No. 747; printed No. 805, entitled: An act to confer jurisdiction on the board of estimate and apportionment of the city of New York to hear, audit and determine claims of contractors with the city where the cost of carrying out the contracts was increased by premiums for workmen's compensation.

Date of introduction February 29; referred to Committee on Affairs of Cities; died in Senate.

WALKER. Senate bill, introductory No. 769; printed No. 827, entitled: An act to amend the liquor tax law, in relation to illegal sales and selling.

Date of introduction March 1; referred to Committee on Taxation and Retrenchment; died in Senate.

WALKER. Senate bill, introductory No. 840; printed No. 1754, entitled: An act to regulate the fares for transportation

on the ferries operated by the Union Ferry Company of New York and Brooklyn, between Fulton street, Brooklyn, and Fulton street, borough of Manhattan, New York city, the ferry between Hamilton avenue, Brooklyn, and Whitehall street, borough of Manhattan, New York city, and the ferry between Atlantic avenue, Brooklyn, and Whitehall street, borough of Manhattan, New York city.

Date of introduction March 7; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 16; recommitted March 21; reported and restored to the Committee of the Whole March 31; amended April 10; ordered to third reading April 13; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Affairs of Cities; returned from Assembly dead.

WALKER. Senate bill, introductory No. 894; printed No. 989, entitled: An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled “An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,” in relation to the appointment by the district attorney of the county of New York of three medical assistants to be known as examiners in lunacy, and their duties.

Date of introduction March 9; referred to Committee on Affairs of Cities; died in Senate.

WALKER. Senate bill, introductory No. 981; printed No. 1111, entitled: An act making an appropriation for the American Seamen’s Friend Society of the city of New York.

Date of introduction March 16; referred to Committee on Finance; died in Senate.

WALKER. Senate bill, introductory No. 1019; printed No. 1151, entitled: An act to amend “An act to provide for an additional supply of pure and wholesome water for the city of New York; and for the acquisition of lands or interest therein, and for the construction of the necessary reservoirs, dams, aqueducts,

filters and other appurtenances for that purpose; and for the appointment of a commission with the powers and duties necessary and proper to attain these objects," generally.

Date of introduction March 17; referred to Committee on Conservation; died in Senate.

WALKER. Senate bill, introductory No. 1081; printed No. 1225, entitled: An act to amend the civil rights law, in relation to right of appeal.

Date of introduction March 21; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on the Judiciary; returned from Assembly dead.

WALKER. Senate bill, introductory No. 1131; printed No. 1289, entitled: An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled "An act to unite into one municipality under the corporate name of the city of New York, the various communities lying in and about New York harbor, including the city and county of New York, the city of Brooklyn and the county of Kings, the county of Richmond and part of the county of Queens, and to provide for the government thereof," in relation to the jurisdiction of actions against the city.

Date of introduction March 23; referred to Committee on Affairs of Cities; died in Senate.

WALKER. Senate bill, introductory No. 1132; printed No. 1290, entitled: An act to amend the Greater New York charter, in relation to the city court of the city of New York.

Date of introduction March 23; referred to Committee on Affairs of Cities; died in Senate.

WALKER. Senate bill, introductory No. 1133; printed No. 1291, entitled: An act to amend the code of civil procedure, in relation to the city court of the city of New York.

Date of introduction March 23; referred to Committee on Codes; died in Senate.

WALKER. Senate bill, introductory No. 1134; printed No. 1292, entitled: An act to amend the code of civil procedure, in relation to the city court of the city of New York.

Date of introduction March 23; referred to Committee on Codes; died in Senate.

WALKER. Senate bill, introductory No. 1135; printed No. 1293, entitled: An act to amend the general construction law, in relation to the term "person."

Date of introduction March 23; referred to Committee on Codes; died in Senate.

WALKER. Senate bill, introductory No. 1136; printed No. 1294, entitled: An act to amend the general construction law, in relation to the term "action."

Date of introduction March 23; referred to Committee on Codes; died in Senate.

WALKER. Senate bill, introductory No. 1137; printed No. 1295, entitled: An act to amend the general corporation law, in relation to the appointment of receivers of property of corporations.

Date of introduction March 23; referred to Committee on the Judiciary; died in Senate.

WALKER. Senate bill, introductory No. 1138; printed No. 1296, entitled: An act to amend the code of civil procedure, in relation to proceedings supplementary to an execution against property.

Date of introduction March 23; referred to Committee on Codes; died in Senate.

WALKER. Senate bill, introductory No. 1139; printed No. 1297, entitled: An act to amend the code of civil procedure, in relation to proceedings supplementary to an execution against property.

Date of introduction March 23; referred to Committee on Codes; died in Senate.

WALKER. Senate bill, introductory No. 1294; printed No. 1781, entitled: An act to authorize and direct the commissioners of the land office of the state of New York to grant and convey to the city of New York certain land below the line of original high water mark at Hunt's Point, in the borough of the Bronx, city of New York, and to authorize the commissioners of the sinking fund of such city to convey such land and certain additional land to persons or corporations.

Date of introduction March 31; referred to Committee on Finance; reported favorably and ordered to third reading April 11; amended April 11; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 16; passed April 16. Record after passage.—Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 499.

WALKER. Senate bill, introductory No. 1371; printed No. 1702, entitled: An act to amend the penal law, in relation to refilling cigar boxes with cigars of a different brand.

Date of introduction April 8; referred to Committee on Codes; reported favorably and ordered to third reading April 14; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Codes; returned from Assembly dead.

WALKER. Senate bill, introductory No. 1431; printed No. 1822, entitled: An act to amend the code of civil procedure, in relation to notice of sale of real property.

Date of introduction April 12; ordered to third reading and referred to Committee on Codes; died in Senate.

WALTERS. Senate bill, introductory No. 46; printed No. 46, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section seven of article seven of the constitution, in relation to the forest preserve.

Date of introduction January 5; referred to Committee on the Judiciary; died in Senate.

WALTERS. Senate bill, introductory No. 117; printed No. 710, entitled: An act to amend the election law, in relation to the destruction of books, records and papers.

Date of introduction January 10; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 23; amended February 23; died in Senate.

WALTERS. Senate bill, introductory No. 118; printed No. 118, entitled: An act to abandon the site and suspend construction of the New York State Training School for Boys and provide for a sale of such site.

Date of introduction January 10; referred to Committee on Finance; died in Senate.

WALTERS. Senate bill, introductory No. 119; printed No. 407, entitled: An act to amend the insanity law, in relation to the Mohansic State Hospital and to abolish such hospital and provide for the sale of the site thereof.

Date of introduction January 10; referred to Committee on Finance; amended and recommitted February 2; died in Senate.

WALTERS. Senate bill, introductory No. 255; printed No. 255, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to sections four, five, eleven and twelve of article seven of the constitution, in relation to state debts and sinking funds.

Date of introduction January 25; referred to Committee on the Judiciary; died in Senate.

WALTERS. Senate bill, introductory No. 286; printed No. 1482, entitled: An act to amend chapter ten of the laws of nineteen hundred and six, entitled "An act to make the office of supervisor in the county of Onondaga a salaried office and to regulate the sessions of the board of supervisors in said county," in relation to the payment of the compensation of certain unskilled laborers in said county.

Date of introduction January 26; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; re-

ported favorably and ordered to third reading February 24; amended February 24; passed March 6 (Pr. No. 736). Assembly record.—Received from the Senate March 7; referred to the Committee on Internal Affairs; committee discharged and ordered to third reading March 7; passed March 7. Record after passage.—Transmitted to Governor March 8; recalled March 16; reconsidered, amended and restored to third reading March 23; amended March 29; repassed April 5. In Assembly.—Repassed April 6; retransmitted to Governor April 6; chapter No. 180.

WALTERS. Senate bill, introductory No. 287; printed No. 406, entitled: An act to amend chapter six hundred and eighty-four of the laws of nineteen hundred and five, entitled “An act to supplement the provisions of law relating to the department of public works of the city of Syracuse,” in relation to making improvements without contract.

Date of introduction January 26; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 2; amended February 2; ordered to third reading February 8; Assembly bill, same title, substituted and passed March 6 (A. Pr. No. 847); chapter No. 61.

WALTERS. Senate bill, introductory No. 381; printed No. 390, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article six of the constitution, in relation to rules and statutes affecting practice, pleading and procedure in the courts.

Date of introduction February 2; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; ordered to third reading February 21; passed February 23. Assembly record.—Received from the Senate February 24; referred to the Committee on the Judiciary; committee discharged and substituted for Assembly bill, same title, on third reading, March 6; passed March 6. Record after passage.—Transmitted to Secretary of State March 7.

WALTERS. Senate bill, introductory No. 388; printed No. 397, entitled: An act to amend the labor law, in relation to hours to constitute a day's work.

Date of introduction February 2; referred to Committee on Labor and Industries; died in Senate.

WALTERS. Senate bill, introductory No. 404; printed No. 420, entitled: An act to amend the poor law, in relation to prosecutions of actions by county superintendents of the poor.

Date of introduction February 3; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; chapter No. 203.

WALTERS. Senate bill, introductory No. 514; printed No. 543, entitled: An act to amend the poor law, in relation to children under fourteen years of age.

Date of introduction February 10; referred to Committee on the Judiciary; died in Senate.

WALTERS. Senate bill, introductory No. 515; printed No. 544, entitled: An act to amend the poor law, in relation to relief of children.

Date of introduction February 10; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 379.

WALTERS. Senate bill, introductory No. 587; printed No. 972, entitled: An act to amend the public lands law, in relation to the disposition of lands and structures owned by the state for canal purposes and no longer necessary or useful therefor.

Date of introduction February 21; referred to Committee on Finance; reported favorably and referred to the Committee of

the Whole March 1; ordered to third reading March 6; amended March 9; passed March 20. Assembly record.—Received from the Senate March 21; substituted for Assembly bill, same title, on third reading, March 21; passed March 21. Record after passage.—Transmitted to Governor March 21; vetoed April 1; motion to repass tabled April 3; died in Senate.

WALTERS. Senate bill, introductory No. 588; printed No. 620, entitled: An act to amend chapter seventy-five of the laws of nineteen hundred and six, entitled "An act to supplement the provisions of law relating to the department of assessment and taxation of the city of Syracuse," in relation to the sprinkling, watering and flushing of streets.

Date of introduction February 21; referred to Committee on Affairs of Cities; committee discharged and ordered to third reading February 21; Assembly bill, same title, substituted and passed March 8 (A. Pr. No. 1065); chapter No. 89.

WALTERS. Senate bill, introductory No. 691; printed No. 1836, entitled: An act to amend the code of civil procedure, in relation to the sale of real property made in pursuance of any of the provisions of chapter fourteen, title one, of the code of civil procedure.

Date of introduction February 24; referred to Committee on Codes; amended April 3; reported favorably and referred to the Committee of the Whole April 6; ordered to third reading April 12; amended April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Codes; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 589.

WALTERS. Senate bill, introductory No. 725; printed No. 778, entitled: An act to amend chapter seventy-five of the laws of nineteen hundred and six, entitled "An act to supplement the provisions of law relative to the department of assessment and taxation of the city of Syracuse," in relation to the foreclosure of tax liens by the party in interest.

Date of introduction February 28; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; Assembly bill, same title, substituted and passed March 23 (A. Pr. No. 1079); chapter No. 244.

WALTERS. Senate bill, introductory No. 726; printed No. 779, entitled: An act to constitute the Baldwinsville union free school district a union free school district under the general laws and to constitute the present board of education of said school district as the board of education thereof, and to repeal certain special acts affecting such district and former districts consolidated therewith.

Date of introduction February 28; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 8; ordered to third reading March 9; passed March 13. Assembly record.—Received from the Senate March 14; referred to the Committee on Public Education; reported favorably and ordered to second reading March 27; ordered to third reading March 28; passed March 29. Record after passage.—Transmitted to Governor March 30; chapter No. 186.

WALTERS. Senate bill, introductory No. 727; printed No. 780, entitled: An act to amend the lien law, in relation to liens of laundrymen.

Date of introduction February 28; referred to Committee on the Judiciary; died in Senate.

WALTERS. Senate bill, introductory No. 728; printed No. 781, entitled: An act to amend the second class cities law, in relation to officers who may not be interested in contracts.

Date of introduction February 28; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed

April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 380.

WALTERS. Senate bill, introductory No. 729; printed No. 782, entitled: An act to amend the penal law, in relation to inducements by false pretenses.

Date of introduction February 28; referred to Committee on Codes; died in Senate.

WALTERS. Senate bill, introductory No. 730; printed No. 1266, entitled: An act to amend chapter six hundred and eighty-four of the laws of nineteen hundred and five, entitled "An act to supplement the provisions of law relating to the department of public works of the city Syracuse," generally.

Date of introduction February 28; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; amended March 22; ordered to third reading March 24; recommitted March 29; died in Senate.

WALTERS. Senate bill, introductory No. 731; printed No. 784, entitled: An act to amend the lien law, in relation to the protection of insurance companies and fidelity or surety companies in furnishing policies under the workmen's compensation law and bonds for public work.

Date of introduction February 28; referred to Committee on the Judiciary; died in Senate.

WALTERS. Senate bill, introductory No. 753; printed No. 811, entitled: An act to amend the poor law, in relation to the return of poor persons to the county, city or town legally chargeable for their support.

Date of introduction February 29; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 20. Assembly record.—Received from the Senate March 21; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 20; passed April 20. Record

after passage.—Transmitted to Governor April 20; not signed by Governor.

WALTERS. Senate bill, introductory No. 754; printed No. 1039, entitled: An act to amend the poor law, in relation to the removal of mothers of illegitimate children.

Date of introduction February 29; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; amended March 14; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on General Laws; returned from Assembly dead.

WALTERS. Senate bill, introductory No. 770; printed No. 828, entitled: An act to amend the tax law, in relation to the salary of the transfer tax appraiser in Onondaga county.

Date of introduction March 1; referred to Committee on Taxation and Retrenchment; reported favorably and referred to the Committee of the Whole March 9; ordered to third reading March 13; passed March 20. Assembly record.—Received from the Senate March 21; referred to the Committee on Internal Affairs; committee discharged and ordered to third reading March 21; passed March 21. Record after passage.—Transmitted to Governor March 21; chapter No. 80.

WALTERS. Senate bill, introductory No. 829; printed No. 908, entitled: An act to confer jurisdiction on the court of claims to hear, audit and determine the claim of John Simone for damages alleged to have been sustained by him by reason of certain barge canal construction, and to render judgment therefor.

Date of introduction March 6; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Claims; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; vetoed.

WALTERS. Senate bill, introductory No. 830; printed No. 1268, entitled: An act to amend chapter three hundred and fifty-six of the laws of nineteen hundred and seven, entitled "An act to provide for the construction of intercepting sewers in and for the city of Syracuse," in relation to authorizing and empowering the Syracuse intercepting sewer board to regulate the flow of Onondaga creek in preservation of public health and safety within the city of Syracuse, and the amount of bonds which may be issued thereunder.

Date of introduction March 6; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading March 22; amended March 22; Assembly bill, same title, substituted and passed March 29 (A. Pr. No. 1485); chapter No. 284.

WALTERS. Senate bill, introductory No. 831; printed No. 910, entitled: An act to amend the general municipal law, in relation to temporary loans in anticipation of taxes.

Date of introduction March 6; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; Assembly bill, same title, substituted and passed March 29 (A. Pr. No. 1156); chapter No. 166.

WALTERS. Senate bill, introductory No. 834; printed No. 913, entitled: An act to amend the second class cities law, in relation to temporary loans.

Date of introduction March 6; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 21; Assembly bill, same title, substituted and passed March 29 (A. Pr. No. 1182); chapter No. 159.

WALTERS. Senate bill, introductory No. 845; printed No. 926, entitled: An act to amend chapter one hundred and eighty-eight of the laws of eighteen hundred and seventy-eight, entitled "An act for the incorporation of district number one of the Independent Order of Benai Berith, and to authorize other corpora-

tions, incorporated societies or other associations, to give and transfer property to, or wholly to consolidate with the corporation hereby created," in relation to application of endowments.

Date of introduction March 7; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 22; recommitted March 23; died in Senate.

WALTERS. Senate bill, introductory No. 996; printed No. 1100, entitled: An act to amend the election law, in relation to the state superintendent of elections and his deputies.

Date of introduction March 16; referred to Committee on the Judiciary; reported favorably and referred to the Committee on Finance March 22; died in Senate.

WALTERS. Senate bill, introductory No. 1037; printed No. 1178, entitled: An act to amend the county law, in relation to the printing and distribution of proceedings of boards of supervisors.

Date of introduction March 20; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

WALTERS. Senate bill, introductory No. 1038; printed No. 1179, entitled: An act to amend the public service commissions law, in relation to telephone service.

Date of introduction March 20; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole April 13; died in Senate.

WALTERS. Senate bill, introductory No. 1039; printed No. 1180, entitled: An act to amend chapter six hundred and seventy-six of the laws of nineteen hundred and ten, entitled "An act to establish the court of special sessions of the city of Syracuse, defining its powers and jurisdiction, and providing for its officers," in relation to designation and compensation of acting justices, and repealing section twenty-one thereof.

Date of introduction March 20; referred to Committee on the Judiciary; died in Senate.

WALTERS. Senate bill, introductory No. 1040; printed No. 1181, entitled: An act to amend chapter five hundred and twenty of the laws of nineteen hundred and six, entitled "An act in relation to the municipal court of the city of Syracuse," in relation to designation and compensation of acting judge of such court, and repealing section thirty-seven thereof.

Date of introduction March 20; referred to Committee on the Judiciary; died in Senate.

WALTERS. Senate bill, introductory No. 1115; printed No. 1263, entitled: An act to incorporate the institute for public service with powers to conduct a training school for public service through assignments of field work, investigations and reports.

Date of introduction March 22; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 29; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on the Judiciary; reported favorably and ordered to second reading April 14; ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 545.

WALTERS. Senate bill, introductory No. 1120; printed No. 1277, entitled: An act to amend chapter eight hundred and thirty-nine of the laws of eighteen hundred and sixty-six, entitled "An act to consolidate school districts number seven and number twenty-eight in the town of Onondaga, county of Onondaga, and to provide for the organization of a school and academy therein, and to enable the said district to provide the necessary buildings therefor," in relation to amount of money which may be voted and raised by tax for the purposes of the schools in such district.

Date of introduction March 22; ordered to third reading March 22; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; chapter No. 194.

WALTERS. Senate bill, introductory No. 1123; printed No. 1280, entitled: An act to amend the election law, in relation to the form of ballot and canvass of votes.

Date of introduction March 22; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole April 6; died in Senate.

WALTERS. Senate bill, introductory No. 1163; printed No. 1320, entitled: An act to amend the code of civil procedure, in relation to sale by sheriff of real property by virtue of an execution.

Date of introduction March 23; referred to Committee on Codes; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Codes; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; not signed by Governor.

WALTERS. Senate bill, introductory No. 1164; printed No. 1321, entitled: An act to amend the election law, in relation to the publication of list of registration and polling places.

Date of introduction March 23; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; not signed by Governor.

WALTERS. Senate bill, introductory No. 1181; printed No. 1353, entitled: An act to amend the second class cities law, in relation to snow and ice on sidewalks and damages resulting therefrom.

Date of introduction March 24; referred to Committee on Affairs of Cities; died in Senate.

WALTERS. Senate bill, introductory No. 1182; printed No. 1354, entitled: An act to provide for a convention to formulate

general rules of practice to govern the practice in civil proceedings in the courts of the state, and making an appropriation therefor.

Date of introduction March 24; referred to Committee on Finance; reported by Committee on Rules and ordered to third reading April 20; passed April 20. Assembly record.—Received from the Senate April 20; referred to the Committee on Ways and Means; returned from Assembly dead.

WALTERS. Senate bill, introductory No. 1187; printed No. 1359, entitled: An act to amend the code of civil procedure, in relation to the deposit of court funds.

Date of introduction March 24; referred to Committee on Codes; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Codes; returned from Assembly dead.

WALTERS. Senate bill, introductory No. 1188; printed No. 1360, entitled: An act to amend the code of civil procedure, in relation to the powers of the comptroller in supervising the administration of court and trust funds.

Date of introduction March 24; referred to Committee on Codes; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; referred to the Committee on Codes; reported favorably and ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 442.

WALTERS. Senate bill, introductory No. 1221; printed No. 1658, entitled: An act to amend the code of civil procedure, in relation to the deposit of court funds.

Date of introduction March 27; referred to Committee on Codes; reported favorably and ordered to third reading April 6; amended April 6; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Codes; reported favorably and ordered to third reading April 20; passed

April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 443.

WALTERS. Senate bill, introductory No. 1238; printed No. 1436, entitled: An act to authorize the board of supervisors of Onondaga county to acquire by purchase, rights of way for the Solvay-state fair-Syracuse county highway.

Date of introduction March 28; ordered to third reading March 28; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 7; passed April 7. Record after passage.—Transmitted to Governor April 8; chapter No. 250.

WALTERS. Senate bill, introductory No. 1239; printed No. 1437, entitled: An act to amend the poor law, in relation to hospital accommodations for indigent persons.

Date of introduction March 28; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 17; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 483.

WALTERS. Senate bill, introductory No. 1266; printed No. 1465, entitled: An act to amend the judiciary law, in relation to appointment of stenographers of the supreme court for the fifth judicial district.

Date of introduction March 29; ordered to third reading and referred to Committee on the Judiciary; reported favorably and restored to third reading April 19; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; vetoed.

WALTERS. Senate bill, introductory No. 1267; printed No. 1466, entitled: An act to amend the tax law, in relation to exceptions and limitations on taxable transfers.

Date of introduction March 29; referred to Committee on Taxation and Retrenchment; died in Senate.

WALTERS. Senate bill, introductory No. 1325; printed No. 1586, entitled: An act to amend the public lands law, in relation to the disposition of lands and structures owned by the state for canal purposes and no longer necessary or useful therefor.

Date of introduction April 5; referred to Committee on Finance; committee discharged and ordered to third reading April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Ways and Means; reported favorably and ordered to second reading April 12; ordered to third reading April 13; passed April 13. Record after passage.—Transmitted to Governor April 14; chapter No. 299.

WALTERS. Senate bill, introductory No. 1356; printed No. 1665, entitled: An act to amend the general city law, in relation to corporations conducting the business of plumbing.

Date of introduction April 6; referred to Committee on Affairs of Cities; reported favorably and ordered to third reading April 12; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on Affairs of Cities; returned from Assembly dead.

WALTERS. Senate bill, introductory No. 1388; printed No. 1729, entitled: An act to incorporate the "Grimes Foundation."

Date of introduction April 10; ordered to third reading and referred to Committee on the Judiciary; reported favorably and restored to third reading April 12; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 352.

WALTERS. Senate bill, introductory No. 1389; printed No. 1730, entitled: An act to amend the public service commissions

law, in relation to changes in rates, charges or rentals by telegraph or telephone corporations. Date of introduction April 10; ordered to third reading and referred to Committee on Public Service; died in Senate.

WALTERS. Senate bill, introductory No. 1403; printed No. 1889, entitled: An act to amend the election law, generally.

Date of introduction April 12; referred to Committee on the Judiciary; amended April 14; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; returned from Assembly dead.

WALTERS. Senate bill, introductory No. 1425; printed No. 1816, entitled: An act making an appropriation for the expenses of the joint committee of the legislature appointed to investigate and inquire into the report of the board of statutory consolidation on the simplification of the civil practice in the courts of the state.

Date of introduction April 12; referred to Committee on Finance; committee discharged and ordered to third reading April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 643.

WALTERS. Senate bill, introductory No. 1426; printed No. 1817, entitled: An act to amend the penal law, in relation to attorneys.

Date of introduction April 12; ordered to third reading and referred to Committee on the Judiciary; reported favorably and restored to third reading April 18; recommitted April 19; died in Senate.

WALTERS. Senate bill, introductory No. 1427; printed No. 1818, entitled: An act to repeal chapter six hundred and seventy-three of the laws of nineteen hundred and thirteen, entitled "An act authorizing the preparation of an index of the session laws

and statutes of the state of New York," making an appropriation for the expenses of the commissioner appointed to prepare such index, directing the chairmen of the judiciary committees of the two houses of the legislature to examine the work and report thereon to the next legislature, and making an appropriation for the expenses of such examination and report.

Date of introduction April 12; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 378.

WALTERS. Senate bill, introductory No. 1441; printed No. 1902, entitled: An act making appropriations for the state college of forestry at Syracuse university.

Date of introduction April 13; referred to Committee on Finance; reported favorably and referred to the Committee of the Whole April 15; amended April 15; ordered to third reading April 17; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Ways and Means; returned from Assembly dead.

WALTERS. Senate bill, introductory No. 1446; printed No. 1881, entitled: An act to amend the executive law, in relation to prosecutions for indictable offenses.

Date of introduction April 14; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 18; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on the Judiciary; returned from Assembly dead.

WALTERS. Senate bill, introductory No. 1451; printed No. 1886, entitled: An act to amend the election law, in relation to voting machines provided with a printing device.

Date of introduction April 14; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole April 18; died in Senate.

WALTERS. Senate bill introductory No. 1452; printed No. 1887, entitled: An act to amend the election law, in relation to the form of ballot for voting machine.

Date of introduction April 14; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole April 18; died in Senate.

WALTERS. Senate bill, introductory No. 1453; printed No. 1888, entitled: An act to amend the election law, in relation to the number of official ballots for voting machines.

Date of introduction April 14; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole April 18; died in Senate.

WALTON. Senate bill, introductory No. 79; printed No. 79, entitled: An act to amend the public health law, in relation to compensation of local health officers.

Date of introduction January 5; referred to Committee on Public Health; died in Senate.

WALTON. Senate bill, introductory No. 166; printed No. 1522, entitled: An act to amend the conservation law, relative to the manner of taking game.

Date of introduction January 18; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Conservation; returned from Assembly dead.

WALTON. Senate bill, introductory No. 179; printed No. 1737, entitled: An act to provide for the construction of an addition or new buildings for the State Normal School at New Paltz, and making an appropriation therefor.

Date of introduction January 19; referred to Committee on Finance; reported favorably and ordered to third reading April 10; amended April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third

reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 20; chapter No. 640.

WALTON. Senate bill, introductory No. 453; printed No. 473, entitled: An act to consolidate several organizations affiliated with the Order of the Eastern Star in the State of New York, and to incorporate the consolidated body under the corporate name of "Order of the Eastern Star of the State of New York."

Date of introduction February 8; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 9; Assembly bill, same title, substituted March 9; passed March 14 (A. Pr. No. 859); chapter No. 56.

WALTON. Senate bill, introductory No. 552; printed No. 582, entitled: An act to amend chapter sixty-five of the laws of nineteen hundred and six, entitled "An act to make the office of sheriff of Ulster county a salaried office, and to regulate the management thereof," in relation to the salary of under-sheriff.

Date of introduction February 15; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on third reading, March 30; passed March 30. Record after passage.—Transmitted to Governor March 31; vetoed April 12; tabled April 13; died in Senate.

WALTON. Senate bill, introductory No. 733; printed No. 786, entitled: An act to amend the conservation law, in relation to disposition of hunting and trapping license fees.

Date of introduction February 28; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Conservation; returned from Assembly dead.

WALTON. Senate bill, introductory No. 748; printed No. 1847, entitled: An act to amend the conservation law, generally, in relation to fish and game and to repeal certain sections thereof.

Date of introduction February 29; referred to Committee on Conservation; reported favorably and ordered to third reading April 10; amended April 10, April 11, April 13; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Conservation; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 521.

WALTON. Senate bill, introductory No. 749; printed No. 807, entitled: An act to amend the conservation law, with respect to docks and dams.

Date of introduction February 29; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Conservation; reported favorably and ordered to third reading April 14; passed April 14. Record after passage.—Transmitted to Governor April 17; chapter No. 298.

WALTON. Senate bill, introductory No. 750; printed No. 808, entitled: An act to amend the conservation law, by repealing section two hundred and fifty-five-a, entitled "Taking certain non-game fish," and section two hundred and fifty-five-a, entitled "Spearing in Niagara river."

Date of introduction February 29; referred to Committee on Conservation; died in Senate.

WALTON. Senate bill, introductory No. 751; printed No. 809, entitled: An act to amend section two hundred and thirty-six of the conservation law, in relation to pike perch.

Date of introduction February 29; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 3; passed April 5. Assembly record.—Received from the Senate

April 6; referred to the Committee on Conservation; returned from Assembly dead.

WALTON. Senate bill, introductory No. 869; printed No. 1877, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section seven of article seven of the constitution, in relation to the forest preserve.

Date of introduction March 8; referred to Committee on the Judiciary; amended and recommitted April 14; died in Senate.

WALTON. Senate bill, introductory No. 885; printed No. 1366, entitled: An act to amend chapter seven hundred and forty-seven of the laws of eighteen hundred and ninety-six, entitled "An act to revise and consolidate the several acts in relation to the city of Kingston, to revise the charter of said city, and to establish a city court therein and define its jurisdiction and powers," generally.

Date of introduction March 9; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; amended March 24; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Mayor of Kingston April 7; returned from Mayor accepted April 20; transmitted to Governor April 20; chapter No. 464.

WALTON. Senate bill, introductory No. 886; printed No. 981, entitled: An act to provide for acquiring land for the forest preserve in the Adirondack and Catskill parks.

Date of introduction March 9; referred to Committee on Finance; died in Senate.

WALTON. Senate bill, introductory No. 903; printed No. 1774, entitled: An act to amend the conservation law, in relation to lands, forest, and public parks.

Date of introduction March 10; referred to Committee on Conservation; reported favorably and ordered to third reading April 11; amended April 11; passed April 15. Assembly record.—Re-

ceived from the Senate April 15; referred to the Committee on Conservation; reported favorably and ordered to second reading April 18; ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 451.

WALTON. Senate bill, introductory No. 1027; printed No. 1159, entitled: An act to amend the conservation law, in relation to nonresident fishing.

Date of introduction March 17; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading April 3; Assembly bill, same title, substituted April 6; passed April 10 (A. Pr. No. 1905); chapter No. 522.

WALTON. Senate bill, introductory No. 1028; printed No. 1518, entitled: An act to amend the conservation law, in relation to the importation and sale of certain mammals and birds.

Date of introduction March 17; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 6; Assembly bill, same title, substituted April 10; passed April 11 (A. Pr. No. 1972); chapter No. 406.

WALTON. Senate bill, introductory No. 1090; printed No. 1238, entitled: An act to authorize the making of a survey and map of the abandoned Delaware and Hudson canal with a report on its present condition and on the feasibility and advisability of reopening or reconstructing said canal and making an appropriation therefor.

Date of introduction March 22; referred to Committee on Finance; died in Senate.

WALTON. Senate bill, introductory No. 1340; printed No. 1635, entitled: An act to amend section two hundred and thirty-eight of the conservation law, in relation to the season and size limit of sturgeon.

Date of introduction April 6; referred to Committee on Conservation; died in Senate.

WALTON. Senate bill, introductory No. 1390; printed No. 1731, entitled: An act to provide for the survey of lands under water that are applied for, and making an appropriation therefor.

Date of introduction April 10; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 13; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 20; chapter No. 635.

WALTON. Senate bill, introductory No. 1399; printed No. 1766, entitled: An act to amend the conservation law, in relation to the supervision of shellfish grounds.

Date of introduction April 11; ordered to third reading and referred to Committee on Conservation; died in Senate.

WALTON. Senate bill, introductory No. 1413; printed No. 1800, entitled: An act to amend the conservation law, in relation to the management of privately owned hardwood lands in the Adirondack park.

Date of introduction April 12; referred to Committee on Conservation; died in Senate.

WALTON. Senate bill, introductory No. 1447; printed No. 1882, entitled: An act to amend the conservation law, generally, in relation to fish and game.

Date of introduction April 14; ordered to third reading and referred to Committee on Conservation; died in Senate.

WALTON. Senate bill, introductory No. 1474; printed No. 1925, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to article seven of the constitution, relating to the forest preserve.

Date of introduction April 18; referred to Committee on the Judiciary; died in Senate.

WELLINGTON. Senate bill, introductory No. 139; printed No. 1675, entitled: An act to amend chapter seven hundred and

sixteen of the laws of nineteen hundred and thirteen, entitled "An act to provide for the acquisition and preservation of the historic tract or parcel of land known as the Bennington battlefield, situate in the town of Hoosick, in the county of Rensselaer, and making an appropriation therefor," in relation to an appropriation for the improvement of said battlefield as a public park.

Date of introduction January 13; referred to Committee on Finance; amended April 6; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; vetoed.

WELLINGTON. Senate bill, introductory No. 204; printed No. 204, entitled: An act to repeal section four hundred and eleven of the election law, relating to instructing voters where voting machines are used.

Date of introduction January 20; referred to Committee on the Judiciary; died in Senate.

WELLINGTON. Senate bill, introductory No. 205; printed No. 205, entitled: An act to amend the election law, in relation to the instruction of voters where voting machines are used.

Date of introduction January 20; referred to Committee on the Judiciary; died in Senate.

WELLINGTON. Senate bill, introductory No. 246; printed No. 246, entitled: An act to amend the highway law, in relation to the acquisition of certain toll bridges at the expense of the state.

Date of introduction January 25; referred to Committee on Finance; died in Senate.

WELLINGTON. Senate bill, introductory No. 247; printed No. 247, entitled: An act to amend the highway law, in relation to the acquisition of certain toll bridges at the expense of the state.

Date of introduction January 25; referred to Committee on Finance; died in Senate.

WELLINGTON. Senate bill, introductory No. 271; printed No. 271, entitled: An act to amend the town law, in relation to per diem compensation of members of the town board for attending meetings.

Date of introduction January 26; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

WELLINGTON. Senate bill, introductory No. 418; printed No. 437, entitled: An act to amend chapter two hundred and fifty-five of the laws of eighteen hundred and fifty-one, entitled "An act to authorize the city of Troy and certain railroad corporations to subscribe for and become the owners of stock for the construction of a railroad through the whole or some portion of the city of Troy," in relation to the construction, maintenance and operation of a railroad in and upon Front street in the city of Troy.

Date of introduction February 4; referred to Committee on Public Service; died in Senate.

WELLINGTON. Senate bill, introductory No. 486; printed No. 508, entitled: An act to legalize and validate the action of the board of supervisors of Rensselaer county, auditing, allowing and directing the payment of certain claims of employees of the election board of said county for the year nineteen hundred and fifteen.

Date of introduction February 9; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading February 24; passed February 28. Assembly record.—Received from the Senate March 1; referred to the Committee on Internal Affairs; committee discharged and substituted for Assembly bill, same title, on third reading, March 7; passed March 7. Record after passage.—Transmitted to Governor March 8; chapter No. 40.

WELLINGTON. Senate bill, introductory No. 519; printed No. 548, entitled: An act to amend subdivision five of section thirty-two hundred and twenty-eight of the code of civil procedure, in relation to costs and disbursements.

Date of introduction February 10; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 9; Assembly bill, same title, substituted March 9; passed March 14 (A. Pr. No. 730); chapter No. 50.

WELLINGTON. Senate bill, introductory No. 520; printed No. 549, entitled: An act to amend the code of criminal procedure, in relation to the jurisdiction of the county court of Rensselaer county to hear and determine crimes punishable with death.

Date of introduction February 10; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 9; Assembly bill, same title, substituted March 9; passed March 14 (A. Pr. No. 731); chapter No. 51.

WELLINGTON. Senate bill, introductory No. 530; printed No. 969, entitled: An act to amend chapter six hundred and forty-seven of the laws of nineteen hundred and fifteen, entitled "An act in relation to the city court of Troy, generally, its judges, clerk and marshals," in relation to the form of summons and the correction of various errors, inaccuracies and omissions.

Date of introduction February 14; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 8; amended March 8; ordered to third reading March 13; passed March 20. Assembly record.—Received from the Senate March 21; referred to the Committee on Codes; committee discharged and substituted for Assembly bill, same title, on third reading, March 28; passed March 28. Record after passage.—Transmitted to Mayor of Troy March 29; returned from Mayor accepted April 7; transmitted to Governor April 12; chapter No. 224.

WELLINGTON. Senate bill, introductory No. 573; printed No. 604, entitled: An act to amend chapter six hundred and seventy of the laws of eighteen hundred and ninety-two, entitled

“An act to amend chapter five hundred and ninety-eight of the laws of eighteen hundred and seventy, entitled ‘An act to amend an act to incorporate the city of Troy, passed April twelfth, eighteen hundred and sixteen, and the several acts amendatory thereof, and also to amend other acts relating to the city of Troy,’ and the acts amendatory of said chapter five hundred and ninety-eight, and to consolidate into one act several of the acts amending the charter of and other acts relating to the city of Troy and its departments, and to the inferior local courts therein,” in relation to assessment of shares of bank stock.

Date of introduction February 18; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 8; ordered to third reading March 9; passed March 13. Assembly record.—Received from the Senate March 14; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading March 22; ordered to third reading March 23; passed March 27. Record after passage.—Transmitted to Mayor of Troy March 28; returned from Mayor accepted April 7; transmitted to Governor April 12; chapter No. 273.

WELLINGTON. Senate bill, introductory No. 800; printed No. 1652, entitled: An act to amend the penal law, in relation to cruelty to animals.

Date of introduction March 2; referred to Committee on Codes; reported favorably and ordered to third reading April 6; amended April 6; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Codes; reported favorably and ordered to second reading April 17; ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 309.

WELLINGTON. Senate bill, introductory No. 822; printed No. 901, entitled: An act to authorize the county of Rensselaer, by its board of supervisors, to allow and pay to Calvin J. Green, of Melrose, in such county, a pension on account of disability incurred in the discharge of his duties as deputy sheriff.

Date of introduction March 6; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported

favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; Assembly bill, same title, substituted and passed March 27 (A. Pr. No. 1143); chapter No. 539.

WELLINGTON. Senate bill, introductory No. 1080; printed No. 1224, entitled: An act to amend the labor law, relative to the issuance of employment certificates for children in factories and mercantile establishments.

Date of introduction March 21; referred to Committee on Labor and Industries; reported favorably and ordered to third reading April 6; passed April 11. Assembly record.—Received from the Senate April 12; substituted for Assembly bill, same title, on second reading April 12; ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; chapter No. 465.

WELLINGTON. Senate bill, introductory No. 1096; printed No. 1244, entitled: An act to amend the election law, in relation to abolishing the board of elections in the county of Rensselaer and to vest in the county clerk of such county the powers and duties of boards of elections.

Date of introduction March 22; referred to Committee on the Judiciary; died in Senate.

WELLINGTON. Senate bill, introductory No. 1151; printed No. 1745, entitled: An act to authorize the city of Troy to improve and regulate the river and dock front, and to make provision for and promote commerce with the city.

Date of introduction March 23; referred to Committee on Affairs of Cities; amended April 6, April 10; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Mayor of Troy April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 563.

WELLINGTON. Senate bill, introductory No. 1152; printed No. 1309, entitled: An act making an appropriation to reim-

burse the city of Troy and the town of Waterford for money erroneously paid to the state.

Date of introduction March 23; referred to Committee on Finance; died in Senate.

WELLINGTON. Senate bill, introductory No. 1153; printed No. 1310, entitled: An act making an appropriation to pay an assessment levied against the state by the city of Troy for the construction of the River street pavement in such city.

Date of introduction March 23; referred to Committee on Finance; died in Senate.

WELLINGTON. Senate bill, introductory No. 1375; printed No. 1717, entitled: An act for the relief of the county of Rensselaer, in relation to excessive taxes levied in such county in the year nineteen hundred and fifteen.

Date of introduction April 10; ordered to third reading April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 259.

WHITNEY. Senate bill, introductory No. 102; printed No. 102, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section one of article two of the constitution, in relation to qualification of voters.

Date of introduction January 10; referred to Committee on the Judiciary; died in Senate.

WHITNEY. Senate bill, introductory No. 212; printed No. 882, entitled: An act to amend chapter two hundred and twenty-nine of the laws of nineteen hundred and fifteen, entitled "An act to incorporate the city of Saratoga Springs."

Date of introduction January 24; referred to Committee on Affairs of Cities; amended January 31, February 7, February 14, March 3; reported favorably and referred to the Committee of the Whole March 17; ordered to third reading March 21; passed March 24. Assembly record.—Received from the Senate March

27; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading March 31; ordered to third reading April 6; passed April 6. Record after passage.— Transmitted to Mayor of Saratoga Springs April 7; returned from Mayor accepted April 14; transmitted to Governor April 14; chapter No. 229.

WHITNEY. Senate bill, introductory No. 272; printed No. 743, entitled: An act to amend the town law, in relation to audit of claims in certain towns.

Date of introduction January 26; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; amended February 24, February 25; ordered to third reading March 1; passed March 6. Assembly record.— Received from the Senate March 7; referred to the Committee on Claims; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.— Transmitted to Governor April 13; not signed by Governor.

WHITNEY. Senate bill, introductory No. 346; printed No. 349, entitled: An act to amend the liquor tax law, in relation to certain officials not to be interested in manufacture or sale of liquors.

Date of introduction January 31; referred to Committee on Taxation and Retrenchment; died in Senate.

WHITNEY. Senate bill, introductory No. 347; printed No. 350, entitled: An act to amend the liquor tax law, in relation to persons to whom liquor shall not be sold, delivered or given away.

Date of introduction January 31; referred to Committee on Taxation and Retrenchment; died in Senate.

WHITNEY. Senate bill, introductory No. 382; printed No. 1166, entitled: An act to amend the public health law, in relation to the definition of practice of dentistry, the appointment of members of the state board of dental examiners, licenses, correction of books of dental registry and penalties.

Date of introduction February 2; referred to Committee on Public Health; reported favorably and referred to the Committee of the Whole March 7; amended March 8; ordered to third reading March 13; amended March 17; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Public Health; reported favorably and ordered to third reading March 30; passed March 30. Record after passage.—Transmitted to Governor March 31; chapter No. 129.

WHITNEY. Senate bill, introductory No. 394; printed No. 403, entitled: An act to amend the state charities law, in relation to the establishment of clearing houses for the mentally deficient.

Date of introduction February 2; referred to Committee on Finance; died in Senate.

WHITNEY. Senate bill, introductory No. 412; printed No. 428, entitled: An act to amend the state finance law, in relation to imposing a penalty for the contracting of debts on behalf of the state in excess of available appropriations.

Date of introduction February 3; referred to Committee on Finance; died in Senate.

WHITNEY. Senate bill, introductory No. 427; printed No. 1164, entitled: An act to amend the public health law, in relation to the practice of medicine.

Date of introduction February 7; referred to Committee on Public Health; amended February 25, March 17; reported favorably and ordered to third reading April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Public Health; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 328.

WHITNEY. Senate bill, introductory No. 428; printed No. 1203, entitled: An act providing for the construction of a bridge over the Mohawk river at Vischer's Ferry, and the approaches thereto in the town of Clifton Park, in the county of Saratoga, and making an appropriation therefor.

Date of introduction February 7; referred to Committee on Finance; amended and recommitted March 20; died in Senate.

WHITNEY. Senate bill, introductory No. 483; printed No. 1552, entitled: An act to amend the public health law, in relation to public water supplies.

Date of introduction February 9; referred to Committee on Public Health; amended March 24, March 31; referred to Committee on Finance April 10; reported favorably and ordered to third reading April 13; lost and tabled April 17; reconsidered April 19; passed April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Public Health; returned from Assembly dead.

WHITNEY. Senate bill, introductory No. 538; printed No. 567, entitled: An act to appropriate moneys for the objects and purposes of the commissioners of the state reservation at Saratoga Springs.

Date of introduction February 14; referred to Committee on Finance; died in Senate.

WHITNEY. Senate bill, introductory No. 565; printed No. 595, entitled: An act to amend the public health law, in relation to penalty for failure to properly record and file a certificate of birth.

Date of introduction February 17; referred to Committee on Public Health; reported favorably and referred to the Committee of the Whole March 7; Assembly bill, same title, substituted March 8; passed March 13 (A. Pr. No. 793); chapter No. 58.

WHITNEY. Senate bill, introductory No. 679; printed No. 722, entitled: An act authorizing the city of Mechanicville to pay certain town audits to the town of Half Moon.

Date of introduction February 24; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 16; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to the Committee on Affairs of Cities; reported favor-

ably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Mayor of Mechanicville April 14; transmitted to Governor April 20; not accepted by the city.

WHITNEY. Senate bill, introductory No. 700; printed No. 751, entitled: An act to authorize the court of claims to determine the claim of Mary Buckles as administratrix of the estate of William Buckles, deceased, against the state of New York, notwithstanding that a written notice of intention to file a claim against the state was not filed as provided by section two hundred and sixty-four of the code of civil procedure.

Date of introduction February 25; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed March 29. Assembly record.—Received from the Senate March 30; referred to the Committee on Claims; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; vetoed.

WHITNEY. Senate bill, introductory No. 795; printed No. 1599, entitled: An act to amend the code of civil procedure, in relation to jurisdiction by court of claims where notice of intent has not been heretofore filed.

Date of introduction March 2; referred to Committee on Codes; reported favorably and ordered to third reading April 5; amended April 5; passed April 10. Assembly record.—Received from the Senate April 11; referred to the Committee on Codes; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; not signed by Governor.

WHITNEY. Senate bill, introductory No. 808; printed No. 887, entitled: An act to provide for the retention and maintenance of a portion of the present Champlain canal for navigation purposes after the completion of the barge canal.

Date of introduction March 6; referred to Committee on Canals; reported favorably and ordered to third reading April 19; passed

April 19. Assembly record.—Received from the Senate April 19; referred to the Committee on Canals; returned from Assembly dead.

WHITNEY. Senate bill, introductory No. 809; printed No. 1752, entitled: An act to amend the public health law, in relation to the practice of optometry.

Date of introduction March 6; referred to Committee on Public Health; reported favorably and referred to the Committee of the Whole April 10; amended April 10; ordered to third reading April 13; lost and tabled April 18; died in Senate.

WHITNEY. Senate bill, introductory No. 818; printed No. 897, entitled: An act making an appropriation for the state reservation at Saratoga Springs.

Date of introduction March 6; referred to Committee on Finance; died in Senate.

WHITNEY. Senate bill, introductory No. 823; printed No. 1753, entitled: An act to amend the public health law, in relation to civil penalties.

Date of introduction March 6; referred to Committee on Public Health; reported favorably and referred to the Committee of the Whole April 10; amended April 10; ordered to third reading April 13; Assembly bill, same title, substituted April 15; passed April 19 (A. Pr. No. 1774); chapter No. 372.

WHITNEY. Senate bill, introductory No. 912; printed No. 1022, entitled: An act to amend the code of civil procedure, in relation to filing transcripts, and docketing judgments thereon, and filing and docketing judgments and decrees of the United States courts.

Date of introduction March 13; referred to Committee on Codes; reported favorably and referred to the Committee of the Whole March 23; ordered to third reading March 24; passed March 28. Assembly record.—Received from the Senate March 29; referred to the Committee on Codes; returned from Assembly dead.

WHITNEY. Senate bill, introductory No. 913; printed No. 1023, entitled: An act to amend the liquor tax law, in relation to the sale of alcohol by licensed pharmacists.

Date of introduction March 13; referred to Committee on Taxation and Retrenchment; died in Senate.

WHITNEY. Senate bill, introductory No. 935; printed No. 1047, entitled: An act to amend the public health law, in relation to power of deputy commissioner of health relative to the selection of sites for tuberculosis hospitals.

Date of introduction March 14; referred to Committee on Public Health; died in Senate.

WHITNEY. Senate bill, introductory No. 951; printed No. 1070, entitled: An act to amend the county law, in relation to tuberculosis hospitals.

Date of introduction March 15; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

WHITNEY. Senate bill, introductory No. 952; printed No. 1376, entitled: An act to confer jurisdiction upon the court of claims to hear, try and determine the claim of Milford D. Whedon for services rendered in connection with the investigation of matters relating to Great Meadow prison.

Date of introduction March 15; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; amended March 27; ordered to third reading March 30; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Claims; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; vetoed.

WHITNEY. Senate bill, introductory No. 953; printed No. 1072, entitled: An act to amend the Mechanicville city charter, generally.

Date of introduction March 15; referred to Committee on Affairs of Cities; died in Senate.

WHITNEY. Senate bill, introductory No. 983; printed No. 1113, entitled: An act to provide for the acquisition and care of lands to commemorate the battle of Saratoga, and making an appropriation therefor.

Date of introduction March 16; referred to Committee on Finance; died in Senate.

WHITNEY. Senate bill, introductory No. 984; printed No. 1863, entitled: An act to amend the public health law, relative to examinations for licenses to practice pharmacy.

Date of introduction March 16; referred to Committee on Public Health; reported favorably and ordered to third reading April 10; amended April 10, April 13; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Public Health; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 327.

WHITNEY. Senate bill, introductory No. 1023; printed No. 1155, entitled: An act to incorporate the Mandingo Development Association.

Date of introduction March 17; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 19; not signed by Governor.

WHITNEY. Senate bill, introductory No. 1041; printed No. 1182, entitled: An act to amend the highway law, in relation to revocation of licenses and certificates of registration upon conviction in the operation of motor vehicles.

Date of introduction March 20; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; died in Senate.

WHITNEY. Senate bill, introductory No. 1071; printed No. 1813, entitled: An act to amend the public health law regarding

the reporting of non-resident patients having tuberculosis admitted to institutions.

Date of introduction March 21; referred to Committee on Public Health; reported favorably and ordered to third reading April 10; amended April 10, April 12; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Public Health; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 370.

WHITNEY. Senate bill, introductory No. 1091; printed No. 1239, entitled: An act to amend the public health law, in relation to consolidated health districts.

Date of introduction March 22; referred to Committee on Public Health; reported favorably and ordered to third reading April 10; Assembly bill, same title, substituted April 14; passed April 19 (A. Pr. No. 1697); chapter No. 369.

WHITNEY. Senate bill, introductory No. 1140; printed No. 1298, entitled: An act to amend the public health law, in relation to the practice of dentistry.

Date of introduction March 23; referred to Committee on Public Health; died in Senate.

WHITNEY. Senate bill, introductory No. 1209; printed No. 1404, entitled: An act to amend the conservation law, in relation to the conservation department, with respect to the state reservation at Saratoga Springs.

Date of introduction March 27; referred to Committee on Conservation; reported favorably and ordered to third reading April 10; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Conservation; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Governor April 18; chapter No. 257.

WHITNEY. Senate bill, introductory No. 1211; printed No. 1744, entitled: An act to amend the conservation law, in relation to the state reservation at Saratoga Springs.

Date of introduction March 27; referred to Committee on Conservation; reported favorably and ordered to third reading April 10; amended April 10; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Conservation; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; chapter No. 295.

WHITNEY. Senate bill, introductory No. 1295; printed No. 1544, entitled: An act to provide for the further improvement of Wood creek in the towns of Argyle and Kingsbury, Washington county, and making an appropriation therefor.

Date of introduction March 31; referred to Committee on Finance; died in Senate.

WHITNEY. Senate bill, introductory No. 1298; printed No. 1547, entitled: An act to amend the public health law, in relation to giving anaesthetics.

Date of introduction March 31; referred to Committee on Public Health; died in Senate.

WHITNEY. Senate bill, introductory No. 1372; printed No. 1703, entitled: An act to amend the public health law, in reference to schools for midwives.

Date of introduction April 8; referred to Committee on Public Health; died in Senate.

WHITNEY. Senate bill, introductory No. 1424; printed No. 1815, entitled: An act making an appropriation for the state reservation at Saratoga Springs.

Date of introduction April 12; referred to Committee on Finance; reported favorably and ordered to third reading April 13; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Ways and Means; reported favorably and ordered to second reading April 18; ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Governor April 20; chapter No. 296.

WHITNEY. Senate bill, introductory No. 1440; printed No. 1857, entitled: An act making an appropriation to reimburse the city of Mechanicville for certain moneys expended on behalf of the state.

Date of introduction April 13; ordered to third reading and referred to Committee on Finance; reported favorably and restored to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; reported favorably and ordered to third reading April 20; passed April 20. Record after passage.—Transmitted to Governor April 20; chapter No. 636.

WHITNEY. Senate bill, introductory No. 1466; printed No. 1912, entitled: An act making an appropriation for the payment of the salaries and expenses of a secretary and other officers appointed by the board of regents, for the enforcement of chapter one hundred and twenty-nine of the laws of nineteen hundred and sixteen.

Date of introduction April 17; ordered to third reading and referred to Committee on Finance; died in Senate.

WICKS. Senate bill, introductory No. 6; printed No. 6, entitled: An act to provide for issuing bonds to the amount of not to exceed twenty-five million dollars for the purpose of eliminating the grade crossings in the state, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and sixteen.

Date of introduction January 5; referred to Committee on Finance; died in Senate.

WICKS. Senate bill, introductory No. 97; printed No. 97, entitled: An act to amend the insurance law, in relation to the creation of mutual companies to make insurances upon or pertaining to automobiles against all or any of the hazards of fire, explosion, transportation, collision, and certain other hazards.

Date of introduction January 10; referred to Committee on Insurance; reported favorably and referred to the Committee of the Whole January 26; ordered to third reading January 31;

passed February 2. Assembly record.—Received from the Senate February 8; referred to the Committee on Insurance; committee discharged and substituted for Assembly bill, same title, on third reading, February 9; passed February 9. Record after passage.—Transmitted to Governor February 10; chapter No. 14.

WICKS. Senate bill, introductory No. 98; printed No. 98, entitled: An act to amend the insurance law, in relation to the creation of mutual companies to make insurances upon or pertaining to automobiles against loss or damage resulting from accident to, or injury suffered by, any person, and for which the person insured is liable, and also certain other insurances upon or pertaining to automobiles.

Date of introduction January 10; referred to Committee on Insurance; reported favorably and referred to the Committee of the Whole January 26; ordered to third reading January 31; passed February 2. Assembly record.—Received from the Senate February 8; referred to the Committee on Insurance; committee discharged and substituted for Assembly bill, same title, on third reading, February 9; passed February 9. Record after passage.—Transmitted to Governor February 10; chapter No. 13.

WICKS. Senate bill, introductory No. 143; printed No. 756, entitled: An act to incorporate certain territory as a municipal corporation, designating such corporation for convenience as "The City of Sherrill" and to confer thereon certain of the powers of villages and cities.

Date of introduction January 17; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 2; amended February 2; ordered to third reading February 21; amended February 24; passed March 2. Assembly record.—Received from the Senate March 3; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading March 30; passed March 30. Record after passage.—Transmitted to Governor March 31; chapter No. 172.

WICKS. Senate bill, introductory No. 188; printed No. 188, entitled: An act to amend the state charities law, in relation to the exchange of products by the Rome State Custodial Asylum.

Date of introduction January 19; referred to Committee on Finance; died in Senate.

WICKS. Senate bill, introductory No. 189; printed No. 530, entitled: An act to amend the state charities law, in relation to the Rome State Custodial Asylum, making provision for parole of inmates.

Date of introduction January 19; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole February 9; amended February 9; ordered to third reading February 21; recommitted February 24; died in Senate.

WICKS. Senate bill, introductory No. 190; printed No. 190, entitled: An act to amend the penal law, in relation to enticing inmates from institutions.

Date of introduction January 19; referred to Committee on Codes; died in Senate.

WICKS. Senate bill, introductory No. 311; printed No. 315, entitled: An act making an appropriation for building and repairing a retaining wall on the Erie canal at or near the corner of South George and West Whitesboro streets in the city of Rome, New York.

Date of introduction January 28; referred to Committee on Finance; reported favorably and ordered to third reading April 15; passed April 18. Assembly record.—Received from the Senate April 18; referred to the Committee on Ways and Means; returned from Assembly dead.

WICKS. Senate bill, introductory No. 405; printed No. 421, entitled: An act to amend the canal law, in relation to the elevation of water to be maintained at Oneida lake.

Date of introduction February 3; referred to Committee on Canals; died in Senate.

WICKS. Senate bill, introductory No. 406; printed No. 422, entitled: An act to authorize the construction of a new steel

bridge with roadway and sidewalks over the Black River canal at Stanwix street in the city of Rome, and making an appropriation therefor.

Date of introduction February 3; referred to Committee on Finance; died in Senate.

WICKS. Senate bill, introductory No. 407; printed No. 423, entitled: An act to authorize the construction of a new steel bridge with roadway and sidewalk over the Black River canal at East Whitesboro street in the city of Rome, and making an appropriation therefor.

Date of introduction February 3; referred to Committee on Finance; died in Senate.

WICKS. Senate bill, introductory No. 451; printed No. 471, entitled: An act to amend the public health law, in relation to public vaults, crypts and mausoleums for the interment of human bodies.

Date of introduction February 8; referred to Committee on Public Health; died in Senate.

WICKS. Senate bill, introductory No. 496; printed No. 518, entitled: An act to provide for the appointment of a commission to investigate and report upon the advisability of providing military education for boys and of creating a military reserve.

Date of introduction February 9; referred to Committee on Military Affairs; died in Senate.

WICKS. Senate bill, introductory No. 534; printed No. 841, entitled: An act to amend the county law, in relation to the salary of the county judge of Oneida county.

Date of introduction February 14; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole February 24; amended March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading March 15; ordered to third reading March 16; passed March 21. Record

after passage.—Transmitted to Governor March 22; chapter No. 86.

WICKS. Senate bill, introductory No. 535; printed No. 564; Assembly printed No. 1812, entitled: An act in relation to extending the boundaries of the city of Utica by annexing thereto part of the town of Deerfield.

Date of introduction February 14; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole February 23; ordered to third reading February 24; passed February 28. Assembly record.—Received from the Senate March 1; referred to the Committee on Affairs of Cities; reported favorably and ordered to second reading March 23; amended March 23; ordered to third reading April 5; passed April 10. In Senate.—Assembly amendments concurred in April 11. Record after passage.—Transmitted to Mayor of Utica April 13; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 449.

WICKS. Senate bill, introductory No. 610; printed No. 842, entitled: An act to amend chapter four hundred and twenty of the laws of nineteen hundred and fifteen, entitled "An act to incorporate the woman's board of home missions of the Presbyterian church in the United States of America," in relation to the control of such woman's board by the general assembly of the Presbyterian church in the United States of America.

Date of introduction February 21; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 1; amended March 1; ordered to third reading March 6; passed March 8. Assembly record.—Received from the Senate March 10; referred to the Committee on Charitable and Religious Societies; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; chapter No. 195.

WICKS. Senate bill, introductory No. 711; printed No. 764, entitled: An act ratifying and confirming a certain contract made between John Hyde, John T. S. Hyde and Louis W. Edy,

copartners, under the firm name of Hyde, Hyde and Edy, and the state of New York, and making an appropriation for the final payment under such contract.

Date of introduction February 28; referred to Committee on Finance; died in Senate.

WICKS. Senate bill, introductory No. 789; printed No. 1092, entitled: An act to amend chapter one hundred and sixty-one of the laws of nineteen hundred and seven, entitled "An act to create and establish a firemen's relief and pension fund for the fire department of the city of Utica, and authorizing the granting and payment of pensions and relief therefrom," in relation to annual appropriations for such fund.

Date of introduction March 2; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading March 15; amended March 15; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 19; passed April 19. Record after passage.—Transmitted to Mayor of Utica April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 489.

WICKS. Senate bill, introductory No. 841; printed No. 922, entitled: An act to amend the agricultural law, in relation to the inspection and branding of food and food products.

Date of introduction March 7; referred to Committee on Agriculture; died in Senate.

WICKS. Senate bill, introductory No. 904; printed No. 1011, entitled: An act to amend chapter seven hundred and thirty-eight of the laws of eighteen hundred and ninety-seven, entitled "An act creating a board of assessors in and for the city of Utica, and defining its powers," in relation to the salaries of the assessors.

Date of introduction March 10; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Affairs of Cities; reported

favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Mayor of Utica April 12; transmitted to Governor April 20; not accepted by the city.

WICKS. Senate bill, introductory No. 917; printed No. 1027, entitled: An act to amend the public health law, in relation to the practice of medicine.

Date of introduction March 13; referred to Committee on Public Health; reported favorably and referred to the Committee of the Whole April 10; died in Senate.

WICKS. Senate bill, introductory No. 954; printed No. 1073, entitled: Concurrent resolution of the Senate and Assembly proposing an amendment to section eight of article seven of the constitution, in relation to a certain portion of the Erie canal.

Date of introduction March 15; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on the Judiciary; reported favorably and ordered to third reading April 10; passed April 10. Record after passage.—Transmitted to Secretary of State April 12.

WICKS. Senate bill, introductory No. 955; printed No. 1477, entitled: An act to amend the election law, in relation to abolishing boards of elections in the counties of Oneida and Broome and to vest in the county clerks of such counties the powers and duties of boards of elections.

Date of introduction March 15; referred to Committee on the Judiciary; reported favorably and referred to the Committee of the Whole March 27; ordered to third reading March 28; amended March 30; passed April 5. Assembly record.—Received from the Senate April 5; referred to the Committee on the Judiciary; reported favorably and ordered to second reading April 7; ordered to third reading April 10; passed April 10. Record after passage.—Transmitted to Governor April 12; chapter No. 454.

WICKS. Senate bill, introductory No. 1034; printed No. 1176, entitled: An act permitting the town of Remsen in the

county of Oneida to transfer to the Fairchilds Cemetery Association all Fairchilds cemetery property and assets now owned by such town.

Date of introduction March 20; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading March 30; Assembly bill, same title, substituted and passed April 3 (A. Pr. No. 1616); chapter No. 233.

WICKS. Senate bill, introductory No. 1056; printed No. 1616, entitled: An act to confer jurisdiction upon the court of claims to hear, audit and determine the claim of Saint Mary's Catholic church of the city of Rome, for damages arising from the taking of certain lands belonging to such church for canal purposes and for the amount expended by such church for the removal of bodies from such lands and the reinterment thereof.

Date of introduction March 20; referred to Committee on the Judiciary; reported favorably and ordered to third reading April 5; amended April 5; recommitted April 14; died in Senate.

WICKS. Senate bill, introductory No. 1142; printed No. 1846, entitled: An act to amend the agricultural law, in relation to the inspection and branding of food and food products.

Date of introduction March 23; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 27; amended March 27; ordered to third reading April 13; amended April 13; recommitted April 19; died in Senate.

WICKS. Senate bill, introductory No. 1248; printed No. 1447, entitled: An act to amend the insurance law, in relation to the standard fire insurance policy of the state of New York, the adjustment of losses and maintenance of actions thereunder.

Date of introduction March 29; referred to Committee on Insurance; died in Senate.

WICKS. Senate bill, introductory No. 1341; printed No. 1636, entitled: An act to amend the insurance law, in relation to the collection of losses under standard policy.

Date of introduction April 6; referred to Committee on Insurance; died in Senate.

WICKS. Senate bill, introductory No. 1462; printed No. 1929, entitled: An act to amend the state law, in relation to organizing the senate districts and for the apportionment of members of assembly of this state.

Date of introduction April 15; ordered to third reading April 15; amended April 17, April 19; passed April 19; emergency message. Assembly record.—Received from the Senate April 20; ordered to third reading April 20; passed April 20; emergency message. Record after passage.—Transmitted to Governor April 20; chapter No. 373.

WILSON. Senate bill, introductory No. 134; printed No. 134, entitled: An act to amend the general business law, in relation to the prevention of intemperance, pauperism and crime, and repealing the liquor tax law.

Date of introduction January 12; referred to Committee on Taxation and Retrenchment; died in Senate.

WILSON. Senate bill, introductory No. 211; printed No. 993, entitled: An act to amend the agricultural law, in relation to vinegar.

Date of introduction January 24; referred to Committee on Agriculture; amended March 9; reported favorably and referred to the Committee of the Whole March 17; ordered to third reading March 21; Assembly bill, same title, substituted and passed March 23 (A. Pr. No. 1257); chapter No. 125.

WILSON. Senate bill, introductory No. 266; printed No. 266, entitled: An act in relation to taxes, tax sales and the redemption of land sold for taxes in Ontario county.

Date of introduction January 26; referred to Committee on Taxation and Retrenchment; died in Senate.

WILSON. Senate bill, introductory No. 484; printed No. 506, entitled: An act to amend the election law, in relation to

registration outside of cities and villages having a population of five thousand or more.

Date of introduction February 9; referred to Committee on the Judiciary; died in Senate.

WILSON. Senate bill, introductory No. 487; printed No. 509, entitled: An act to amend the conservation law, in relation to open season for water fowl.

Date of introduction February 9; referred to Committee on Conservation; died in Senate.

WILSON. Senate bill, introductory No. 488; printed No. 510, entitled: An act to amend the village law, in relation to the keeping of swine.

Date of introduction February 9; referred to Committee on Affairs of Villages; reported favorably and referred to the Committee of the Whole March 20; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Public Health; reported favorably and ordered to third reading April 6; passed April 6. Record after passage.—Transmitted to Governor April 7; chapter No. 199.

WILSON. Senate bill, introductory No. 531; printed No. 874, entitled: An act to amend the agricultural law, in relation to bonds to be given by purchasers of milk.

Date of introduction February 14; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole February 28; amended March 2; ordered to third reading March 17; passed March 21. Assembly record.—Received from the Senate March 22; referred to Committee on Agriculture; returned from Assembly dead.

WILSON. Senate bill, introductory No. 532; printed No. 561, entitled: An act to amend the agricultural law, in relation to the manufacture and sale of imitation butter.

Date of introduction February 14; referred to Committee on Agriculture; died in Senate.

WILSON. Senate bill, introductory No. 533; printed No. 870, entitled: An act to amend the agricultural law, in relation to farm produce.

Date of introduction February 14; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole February 28; ordered to third reading March 1; amended March 2; passed March 9. Assembly record.—Received from the Senate March 10; referred to the Committee on Agriculture; reported favorably and ordered to third reading April 10; passed April 10. Record after passage.—Transmitted to Governor April 12; chapter No. 228.

WILSON. Senate bill, introductory No. 559; printed No. 1000, entitled: An act to amend the agricultural law, in relation to concentrated commercial feeding stuffs.

Date of introduction February 17; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole February 28; ordered to third reading March 1; amended March 2, March 9; passed March 20. Assembly record.—Received from the Senate March 21; referred to the Committee on Agriculture; reported favorably and ordered to second reading March 23; ordered to third reading March 24; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 135.

WILSON. Senate bill, introductory No. 560; printed No. 590, entitled: An act to amend the agricultural law, in relation to fines and penalties.

Date of introduction February 17; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 17; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Agriculture; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 384.

WILSON. Senate bill, introductory No. 561; printed No. 1478, entitled: An act to amend the agricultural law, in relation to commercial fertilizers.

Date of introduction February 17; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole February 28; ordered to third reading March 1; amended March 2, March 29; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Agriculture; reported favorably and ordered to third reading April 12; passed April 12. Record after passage.—Transmitted to Governor April 14; not signed by Governor.

WILSON. Senate bill, introductory No. 574; printed No. 1526, entitled: An act to amend the agricultural law, in relation to diseases of domestic animals and of the sale of calves and carcasses of the same.

Date of introduction February 21; referred to Committee on Agriculture; amended March 17; reported favorably and referred to the Committee of the Whole March 23; ordered to third reading March 24; amended March 27, March 30; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Agriculture; returned from Assembly dead.

WILSON. Senate bill, introductory No. 575; printed No. 607, entitled: An act to amend the agricultural law, in relation to the disposal of skim milk and whey without pasteurization.

Date of introduction February 21; referred to Committee on Agriculture; died in Senate.

WILSON. Senate bill, introductory No. 664; printed No. 700, entitled: An act to amend chapter three hundred and sixty of the laws of eighteen hundred and ninety-seven, entitled "An act to incorporate the city of Geneva," in relation to the police pension fund.

Date of introduction February 23; referred to Committee on Affairs of Cities; reported favorably and referred to the Committee of the Whole March 22; ordered to third reading March 23; Assembly bill, same title, substituted March 24; passed March 27 (A. Pr. No. 1588); chapter No. 288.

WILSON. Senate bill, introductory No. 771; printed No. 829, entitled: An act to amend the agricultural law, in relation to dis-

tribution of moneys recovered on bonds given by commission merchants.

Date of introduction March 1; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 17; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Agriculture; reported favorably and ordered to third reading April 11; passed April 11. Record after passage.—Transmitted to Governor April 13; chapter No. 385.

WILSON. Senate bill, introductory No. 785; printed No. 854, entitled: An act to amend the agricultural law, in relation to the destruction of noxious weeds.

Date of introduction March 2; referred to Committee on Agriculture; died in Senate.

WILSON. Senate bill, introductory No. 786; printed No. 855, entitled: An act to amend the agricultural law, in relation to milk standards.

Date of introduction March 2; referred to Committee on Agriculture; died in Senate.

WILSON. Senate bill, introductory No. 787; printed No. 856, entitled: An act to amend the agricultural law, in relation to preventing the spread of insect pests and fungus diseases.

Date of introduction March 2; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 17; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Agriculture; returned from Assembly dead.

WILSON. Senate bill, introductory No. 803; printed No. 880, entitled: An act to amend the agricultural law, in relation to compensation for animals.

Date of introduction March 3; referred to Committee on Agriculture; reported favorably and ordered to third reading March 17; passed March 21. Assembly record.—Received from the

Senate March 22; referred to the Committee on Agriculture; reported favorably and ordered to second reading March 23; ordered to third reading March 24; passed March 28. Record after passage.—Transmitted to Governor March 29; chapter No. 140.

WILSON. Senate bill, introductory No. 810; printed No. 889, entitled: An act to amend the conservation law, in relation to trespassing on private lands.

Date of introduction March 6; referred to Committee on Conservation; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Conservation; reported favorably and ordered to second reading April 13; recommitted April 13; returned from Assembly dead.

WILSON. Senate bill, introductory No. 884; printed No. 979, entitled: An act to amend the agricultural law, in relation to condensed milk.

Date of introduction March 9; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 17; ordered to third reading March 21; passed March 23. Assembly record.—Received from the Senate March 24; referred to the Committee on Agriculture; returned from Assembly dead.

WILSON. Senate bill, introductory No. 910; printed No. 1020, entitled: An act to amend the county law, in relation to the salary of the surrogate of Ontario county.

Date of introduction March 13; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorable and referred to the Committee of the Whole March 22; ordered to third reading March 23; passed March 27. Assembly record.—Received from the Senate March 28; referred to the Committee on Internal Affairs; reported favorably and ordered to second reading April 11; recommitted April 12; returned from Assembly dead.

WILSON. Senate bill, introductory No. 950; printed No. 1069, entitled: An act to provide a building at the New York agricultural experiment station, and making an appropriation therefor.

Date of introduction March 15; referred to Committee on Finance; reported favorably and ordered to third reading April 10; Assembly bill, same title, substituted April 14; passed April 19 (A. Pr. No. 1478); chapter No. 558.

WILSON. Senate bill, introductory No. 997; printed No. 1916, entitled: An act to amend the agricultural law, in relation to the disposal of skim milk and whey without pasteurization.

Date of introduction March 16; referred to the Committee on Agriculture; reported favorably and ordered to third reading April 17; amended April 17; passed April 20. Assembly record.—Received from the Senate April 20; referred to the Committee on Agriculture; returned from Assembly dead.

WILSON. Senate bill, introductory No. 1049; printed No. 1190, entitled: An act to amend the agricultural law, in relation to paint.

Date of introduction March 20; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 3. Assembly record.—Received from the Senate April 4; referred to the Committee on Agriculture; returned from Assembly dead.

WILSON. Senate bill, introductory No. 1072; printed No. 1216, entitled: An act to amend the education law, in relation to supervisor's bond for school moneys.

Date of introduction March 21; referred to Committee on Public Education; died in Senate.

WILSON. Senate bill, introductory No. 1156; printed No. 1519, entitled: An act to amend the agricultural law, in relation to the enrollment of stallions offered for public service and for the improvement of the horse industry in the state of New York.

Date of introduction March 23; referred to Committee on Agriculture; reported favorably and referred to the Committee of the Whole March 30; amended March 30; ordered to third reading April 3; Assembly bill, same title, substituted and passed April 10 (A. Pr. No. 1938); chapter No. 322.

WILSON. Senate bill, introductory No. 1169; printed No. 1326, entitled: An act to amend the town law, in relation to the care of certain burial grounds in towns.

Date of introduction March 23; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and referred to the Committee of the Whole March 30; ordered to third reading March 31; passed April 5. Assembly record.—Received from the Senate April 6; referred to the Committee on Internal Affairs; returned from Assembly dead.

WILSON. Senate bill, introductory No. 1207; printed No. 1402, entitled: An act to amend the agricultural law, in relation to the sale of skim milk.

Date of introduction March 27; referred to Committee on Agriculture; died in Senate.

WILSON. Senate bill, introductory No. 1208; printed No. 1403, entitled: An act authorizing the town board of the town of Phelps, Ontario county, to reimburse George W. Salisbury with the moneys lost through the insolvency of certain banks.

Date of introduction March 27; referred to Committee on Internal Affairs of Towns, Counties and Public Highways; reported favorably and ordered to third reading April 12; passed April 15. Assembly record.—Received from the Senate April 15; referred to the Committee on Internal Affairs; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.—Transmitted to Governor April 20; vetoed.

WILSON. Senate bill, introductory No. 1386; printed No. 1728, entitled: An act to amend chapter three hundred and sixty of the laws of eighteen hundred and ninety-seven, entitled "An

act to incorporate the city of Geneva," in relation to authorizing moneys to be raised by tax for heating, lighting, insurance and water rent for the Geneva city hospital.

Date of introduction April 10; ordered to third reading and referred to Committee on Affairs of Cities; reported favorably and restored to third reading April 12; passed April 14. Assembly record.—Received from the Senate April 15; referred to the Committee on Affairs of Cities; reported favorably and ordered to third reading April 17; passed April 17. Record after passage.—Transmitted to Mayor of Geneva April 18; transmitted to Governor April 20; not accepted by the city.

WILSON. Senate bill, introductory No. 1416; printed No. 1803, entitled: An act to amend the state charities law, in relation to farmers' pensions.

Date of introduction April 12; ordered to third reading April 12; recommitted to Committee on Agriculture April 20; died in Senate.

COMMITTEE ON CIVIL SERVICE. Senate bill, introductory No. 1404; printed No. 1791, entitled: An act to amend the civil service law, in relation to the changing of the classification of offices and positions from the exempt class to the competitive class and filling of the same by competitive examination.

Date of introduction April 12; referred to Committee on Civil Service; died in Senate.

COMMITTEE ON JUDICIARY. Senate bill, introductory No. 1154; printed No. 1611, entitled: An act to amend the real property law, in relation to registering title to real property.

Date of introduction March 23; ordered to third reading March 23; amended March 30; lost and tabled April 5; reconsidered, amended and restored to third reading April 5; recommitted April 14; died in Senate.

COMMITTEE ON PUBLIC SERVICE. Senate bill, introductory No. 1186; printed No. 1358, entitled: An act to amend chapter one hundred and twenty-five of the laws of nineteen hun-

dred and six, entitled "An act in relation to illuminating gas in the city of New York and regulating the quality and pressure thereof and the price to consumers other than said city and providing a penalty for violation," in relation to price of gas to consumers in such city.

Date of introduction March 24; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 27; rules suspended and ordered to third reading April 6; passed April 6. Assembly record.— Received from the Senate April 10; referred to the Committee on Electricity, Gas and Water Supply; reported favorably and ordered to third reading April 18; passed April 18. Record after passage.— Transmitted to Mayor of New York April 20; transmitted to Governor April 20; returned from Mayor accepted; chapter No. 604.

COMMITTEE ON PUBLIC SERVICE. Senate bill, introductory No. 1191; printed No. 1841, entitled: An act to amend the public service commissions law, generally.

Date of introduction March 27; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 31; recommitted April 7; amended April 10, April 13; reported and ordered to third reading April 13; passed April 17. Assembly record.— Received from the Senate April 17; referred to the Committee on the Judiciary; returned from Assembly dead.

COMMITTEE ON PUBLIC SERVICE. Senate bill, introductory No. 1192; printed No. 1693, entitled: An act to amend the public service commissions law, in relation to the time of taking effect of an order, changing rates and granting reparation of excess payments.

Date of introduction March 27; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 31; amended March 31, April 7; recommitted April 7; reported and restored to the Committee of the Whole April 19; died in Senate.

COMMITTEE ON PUBLIC SERVICE. Senate bill, introductory No. 1193; printed No. 1389, entitled: An act to amend

the public service commissions law, in relation to the regulation and supervision of water supply.

Date of introduction March 27; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 31; recommitted April 7; died in Senate.

COMMITTEE ON PUBLIC SERVICE. Senate bill, introductory No. 1194; printed No. 1390, entitled: An act to amend the stock corporation law, in relation to directors of certain corporations.

Date of introduction March 27; referred to Committee on the Judiciary; referred to Committee on Public Service April 10; died in Senate.

COMMITTEE ON PUBLIC SERVICE. Senate bill, introductory No. 1195; printed No. 1716, entitled: An act to amend chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants," generally.

Date of introduction March 27; referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole March 31; recommitted April 7; amended April 10; reported and ordered to third reading April 13; passed April 17. Assembly record.—Received from the Senate April 17; referred to the Committee on the Judiciary; returned from Assembly dead.

COMMITTEE ON PUBLIC SERVICE. Senate bill, introductory No. 1435; printed No. 1852, entitled: An act to amend the public service commissions law, in relation to limitation of time within which final decision must be made by commission and providing for appeals from such final decision.

Date of introduction April 13; ordered to third reading and referred to Committee on Public Service; reported favorably and referred to the Committee of the Whole April 19; died in Senate.

COMMITTEE ON TAXATION AND RETRENCHMENT. Senate bill, introductory No. 1242; printed No. 1440, entitled: An act to amend the liquor tax law, in relation to state commissioner of excise; excise taxes; liquor tax certificates and local option.

Date of introduction March 28; referred to Committee on Taxation and Retrenchment; died in Senate.

SPECIAL COMMITTEE ON LABOR LEGISLATION.
Senate bill, introductory No. 1035; printed No. 1709, entitled:
An act to amend the workmen's compensation law, generally.

Date of introduction March 20; referred to Committee on Labor and Industries; reported favorably and referred to the Committee of the Whole April 6; amended April 6; recommitted April 10; reported and ordered to third reading April 10; amended April 10; Assembly bill, same title, substituted April 14; passed April 19 (A. Pr. No. 2047); chapter No. 622.

SPECIAL COMMITTEE ON LABOR LEGISLATION.
Senate bill, introductory No. 1270; printed No. 1848, entitled:
An act to amend the labor law, generally.

Date of introduction March 29; referred to Committee on Labor and Industries; reported favorably and referred to the Committee of the Whole April 6; amended April 6; ordered to third reading April 13; amended April 13; Assembly bill, same title, substituted April 14; passed April 19 (A. Pr. No. 2032); vetoed.

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